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MEDIEVAL THEORIES OF NATURAL LAW: WILLIAM OF OCKHAM AND THE SIGNIFICANCE OF THE VOLUNTARIST TRADITION

Francis Oakley

THE BELIEF in a natural law superior to mere positive enactment and the practice of appealing to it were common to the vast majority of medieval political thinkers¹—whether civil lawyers or philosophers, canon lawyers or theologians; and, all too often, it has been assumed that when they invoked the natural law, they meant much the same thing by it. It takes, indeed, little more than a superficial glance to discover that the civil or canon lawyers often meant by natural law something rather different than did the philosophers or theologians, but it takes perhaps a closer look to detect that not even the theologians themselves were in full agreement in their theories of natural law.

Now if, for the sake of simplicity, we ignore the canon and civil lawyers, and set aside, therefore, the ambiguities and uncertainties which persisted in their thinking about natural law, and if, having done this, we turn our attention to the theologians of the later Middle Ages, we will find, I believe, that their natural law theorizing was almost wholly trapped within the field of attraction exercised by the two influential poles of the “rationalist” and “voluntarist,” or, if you wish, the “realist” and “nominalist” positions—this latter terminology referring to the respective solutions of the two schools to the basic epistemological problem of the status of universal concepts.

The most prominent of the medieval realists was, of course, Thomas Aquinas, and the most coherent of the later medieval nominalists was William of Ockham, the fourteenth century English philosopher of empiricist leanings who has sometimes been compared with Hume. Neither of these men wrote treatises specifically devoted to law, and their views, therefore, have to be quarried from their general philosophical and polemical writings. This is easy enough in the case of Aquinas, both because he was a systematic thinker and because his views are so well known; but it is less easy when we turn to Ockham, who produced no ordered synthesis comparable with the *Summa*

1. Marsilius of Padua is, of course, an exception to this generalization, though there is some disagreement about the precise nature of his position—see ALAN GEWIRTH, 1 MARSILIUS OF PADUA 134-135 (New York, 1951).

Theologica, and many of whose writings are not yet available in modern editions. He was a most prolific writer. His remarks on law are scattered throughout his writings, and few, indeed, are the scholars who can claim to know them all. Moreover, in his best-known text on natural law,² Ockham actually distinguishes three varieties, the last of which overlaps with the law of nations. The remarks which follow, however, will be restricted to his first variety—natural law in what is for him its primary and fundamental sense—and they will, therefore, reflect a somewhat simplified version of his position.

These qualifications being understood, I propose to do four things: First, to contrast the natural law theories of Aquinas and Ockham; second, to trace the descendants of the Ockhamist theory; third, to ask whether this particular theory of natural law entailed a definition of the nature of law in general, and to inquire whether it is valid to suggest the existence of any link between this theory of natural law and the development of the idea of sovereignty; finally, and more tentatively, to contrast in general terms the philosophical presuppositions relevant to the disparate legal theories of the two men.

I

We may take as our point of departure one of Otto von Gierke's lengthy footnotes in which he contrasts the two basic medieval views on natural law. "The older view," he says,³

which is more especially that of the Realists, explained the *Lex Naturalis* as an intellectual act independent of will—as a mere *lex indicativa*, in which God was not lawgiver but a teacher working by means of Reason—in short, as the dictate of Reason as to what is right, grounded in the Being of God but unalterable even by Him. . . . The opposite proposition, proceeding from pure Nominalism, saw in the Law of Nature a mere divine command, which was right and binding merely because God was the lawgiver. So Ockham, Gerson,⁴ d'Ailly.⁵

Gierke proffered no documentation of his assertion concerning the Nominal-

2. Cf. *Dialogus*, III, II, III, ch. 6; in GOLDAST, 2 *MONARCHIA* 934-935 (Frankfurt, 1668).

3. *POLITICAL THEORIES OF THE MIDDLE AGE* 173, n. 256, transl. Maitland (Cambridge, 1927).

4. Jean le Charlier de Gerson (1363-1429), a sometime Chancellor of the University of Paris, best known for his theological writings. For a brief biographical sketch see *DICTIONNAIRE DE THÉOLOGIE CATHOLIQUE*, s.v. "Gerson, Jean."

5. Cardinal Pierre d'Ailly (1350-1420), master and friend of Gerson, philosopher, theologian, Chancellor of the University of Paris and, finally, Bishop of Cambrai. See *DICTIONNAIRE DE THÉOLOGIE CATH.* s.v. "Ailly, Pierre d'."

ists, but his interpretation of the Realist view can speedily be vindicated if we turn to Aquinas's *Summa Theologica*.⁶

Law, according to Aquinas, is "something pertaining to reason" (*aliquid rationis*).⁷ And as the law is "nothing else than a dictate of practical reason emanating from the ruler who governs a complete community," it follows, if it is granted that the world is ruled by the divine providence, that

the whole community of the universe is governed by the divine reason. And, therefore, the reason directing the government of things, existing in God as ruler of the universe, has itself the nature of law. And because the divine reason conceives no ideas in time . . . it follows that this sort of law must be called eternal.⁸

Or again, God is related to the world of which He is the creator and ruler, as an artist is related to his work. And as in the mind of every artist there pre-exists the idea of the work he produces, so also in every ruler there pre-exists the idea of the order to be followed by those being governed. Hence "the idea of the divine wisdom, moving all things to their due end, has the nature of law," and "the eternal law is nothing other than the idea of the divine wisdom insofar as it directs all acts and movements."⁹ Moreover,

Because all things which are subject to divine Providence are measured and regulated by the Eternal Law, . . . it is manifest that all things, in some manner, participate in the Eternal Law, inasmuch as they derive from it certain inclinations to those actions and aims which are proper to them. Of all creatures, however, rational creatures are subject to divine Providence in a more excellent way, being themselves made participators in Providence itself, in that they control their own actions and the actions of others. They have, therefore, a certain share in the divine reason itself, from which they derive a natural inclination to such actions and ends as are fitting. And this participation in the Eternal Law by rational creatures is called the Natural Law.¹⁰

Aquinas's position, therefore, amounts basically to this: that there is an Eternal Law which orders to their appointed ends all created things, irrational as well as rational. Insofar as it concerns man and is apprehended by his reason this eternal law is called the natural law. And it should be noted that to these two categories he adds two further ones: *divine positive law*, the

6. SUMMA THEOLOGICA, Ia 2æ, qu. 90-95. (The *Summa* is hereafter cited as S.T.)

7. S.T., Ia 2æ, qu. 91, art. 1.

8. S.T., Ia 2æ, qu. 91, art. 1, *Resp.*

9. S.T., Ia 2æ, qu. 93, art. 1, *Resp.*

10. S.T., Ia 2æ, qu. 91, art. 2, *Resp.*

decrees of God which supplement the natural law and which are made known to man by revelation rather than reason;¹¹ and *human positive law*, the laws enacted by rulers for their subjects.¹² Finally, he maintains, every human positive law "bears the nature of law only insofar as it is derived from the natural law."¹³

If, however, we now turn to Ockham we will find, according to Gierke, that far from viewing the natural law as grounded in the Being of God, he regarded it merely as a series of divine commands. But Gierke supports his interpretation with no references, and it has not gone unchallenged. In 1932 Max A. Shephard, in an article¹⁴ commended in recent years by Ewart Lewis,¹⁵ took issue with it, and his arguments have led Sabine to conclude that "there is a question how far William actually carried his metaphysics over into his theory of law."¹⁶ Referring to a passage from the first part of Ockham's *Dialogus*,¹⁷ in which he speaks of "natural law or evident natural reason," Shephard contended that such a linking together of the natural law and natural reason "shows us that Occam held to the time-honored ancient and medieval tradition of eternal, immutable principles of nature, discoverable by the use of reason." He concluded, therefore, that

no really essential difference exists between Occam and Aquinas on this point, and that it is on the whole erroneous to extend the nominalistic-realistic schism to embrace their respective theories of natural law.

It is true that such texts, in which Ockham links natural law with evident natural reason, are broadcast throughout the *Dialogus*, and in one of them, indeed, Ockham gives an unquestionable indication of the rational character of natural law, when he speaks of "using the natural dictate of reason, that is, using natural law."¹⁸ Other texts fail, however, to support this position. For in at least two places in the *Dialogus*,¹⁹ Ockham says that certain moral

11. S.T., Ia 2æ, qu. 91, art. 4, *Resp.*

12. S.T., Ia 2æ, qu. 95, art. 1, *Resp.*

13. S.T., Ia 2æ, qu. 95, art. 2, *Resp.*

14. *William of Occam and the Higher Law*, 26 AMERICAN POLITICAL SCIENCE REVIEW 1005-23 (1932); also vol. 27 (1933), pp. 24-38. The quotations below are from p. 1009.

15. 1 MEDIEVAL POLITICAL IDEAS 336, n. 32 (London, 1954).

16. G. H. SABINE, A HISTORY OF POLITICAL THEORY 306 (New York, 1955).

17. The *DIALOGUS*, a rather prolix polemical work, takes the form of a discussion between a master and his pupil, Ockham representing the master whom the pupil questions on his opinions. (This work is hereafter cited as *DIAL.*)

18. *DIAL.* I, VI, ch. 100, p. 629, line 45, "utens naturali dictamine rationis, hoc est utens jure naturali."

19. *DIAL.* I, I, ch. 8, p. 405, line 9, "Quædam vero pure moralia traduntur in eis, quæ nulla possunt ratione muniri, sicut patet in multis capitulis decretorum et decretalium."

DIAL. I, I, ch. 8, p. 405, lines 20-21, "Quantum vero ad moralia, quæ nulla possunt ratione muniri. . . ."

precepts cannot be defended by reason. Indeed, he goes so far as to admit that God is not bound by natural law because He can dispense from its precepts.²⁰ Such statements can only serve to indicate that the natural law, far from possessing any intrinsic rationality or any ontological foundation, is grounded solely in the decisions of a sovereign Divinity. Faced with these contradictions, therefore, it becomes necessary to broaden the basis of our inquiry and to see what Ockham had to say about the question in his *Commentary on the Sentences of Peter Lombard*²¹—an earlier writing and his major philosophical work.

Here Gierke would seem to find support in a long series of texts which enunciate the voluntarist position in terms which admit of no equivocation. In the second book of the *Sentences* we are told that hate of God, adultery, robbery—all such vices—could be stripped of their evil and rendered meritorious “if they were to agree with the divine precept just as now, *de facto*, their opposites agree with the divine precept.”²² The reason for this is that “God is obliged to the causing of no act.”²³ And, indeed, all this is but a necessary deduction from the position already adopted by Ockham when he said that “evil is nothing other than the doing of something opposite to that which one is obliged to do.”²⁴ It should be noted, too, that such an obligation does not affect God, since He is not obliged to do anything.

So far, so good. But in the third book of the *Sentences* we are told that

20. DIAL. III, I, II, ch. 24, p. 812, lines 35-36, “Si autem sint simpliciter præcepta juris naturalis, nullus casus excipi debet, propter quamcunque necessitatem vel utilitatem, nisi Deus specialiter aliquid exciperet.”

21. SUPER QUATUOR LIBROS SENTENTIARUM (Lyons, 1495)—to be cited hereafter as SENT. This is one of the many medieval commentaries on the *Sentences* of Peter Lombard, born c. 1100, died c. 1160: first, Professor of Theology at Paris, later, Bishop of Paris. Lombard's *Sentences* consists of a long series of questions in which the whole body of theological doctrine is covered and united in a systematized whole. Down to the sixteenth century, it was the textbook of the university course and upon it every future doctor had to lecture.

22. SENT. II, qu. 19 O: “. . . dico quod licet odium dei, furari, adulterari habeant malam circumstantiam annexam et similia *de communi lege* quatenus fiunt ab aliquo qui ex præcepto divino obligatur ad contrarium: sed quantum ad esse absolutum in illis actibus possunt fieri a deo sine omni circumstantia mala annexa: et etiam meritorie possunt fieri a viatore si caderent sub præcepto divino sicut nunc de facto eorum opposita cadunt sub præcepto divino.”

23. SENT. II, qu. 19 P: “. . . sed deus ad nullum actum causandum obligatur: ideo quemlibet actum absolutum potest sine omni malo culpæ causare: et ejus oppositum, et ideo sicut potest causare totaliter actum diligendi sine bonitate vel malicia morali: Quia bonitas moralis et malicia connotant quod agens obligatur ad illum actum vel ejus oppositum: ita potest totaliter causare actum odiendi deum sine omni malicia morali propter eandem causam: quia ad nullum actum causandum obligatur.”

24. SENT. II, qu. 5 H: “. . . quia malum nihil aliud est quam facere aliquid ad cujus oppositum faciendum aliquis obligatur: quæ obligatio non cadit in deum: quia ille ad nihil faciendum obligatur, nec præsupponitur malicia in causa: quæ sit causa maliciæ effectus. Sed malicia effectus est causa maliciæ in causa.”

"no act is perfectly virtuous unless the will through that act wishes that which is dictated by right reason because it is dictated by right reason."²⁵ Again, therefore, a coherent position seems to be shattered by the introduction of an alien element incompatible with it. Again, as was the case with his political writings, so also with his more purely philosophical, it seems impossible to extract from them a coherent interpretation of the nature of morality and hence a clear doctrine of natural law. In both we find, in intimate juxtaposition, the rationalist and voluntarist theories, and no peace can be found to grow between these antinomies. For it is clear that there can be no question of a compromise.

It would, nevertheless, be incorrect to accuse Ockham either of incoherence or illogicality. For if we push the analysis another step further, we do not, it is true, find suitable ground for a compromise, for that is out of the question, but we do find that the last word lies with the will. Will, not reason, is found to be at the heart of law. Coming, as it does, after the rationalist texts quoted above, this, no doubt, must seem a rash contention. The fact is, however, that there is, in itself, nothing final about right reason; the ultimate priority lies with the divine will, for it is rather "by the very fact that the divine will wishes it that right reason dictates what is to be willed."²⁶ Again, no act elicited against right reason, we are told, can be virtuous, "Since such an act would be elicited against divine precept and against the divine will commanding that such an act be elicited in conformity with right reason."²⁷ We are now at the very heart of Ockham's position. And there is no dichotomy between the respective criteria of right reason and divine will, which are linked here, and linked significantly and hierarchically.

The case, therefore, for the voluntarist interpretation of morality, and, as a result, of natural law, would now seem to be watertight. But it is still possible to feel a certain dissatisfaction with the logic of Ockham's argumentation. It may be true for him, as we have seen, that right reason is dependent, for the very role it plays in morality, upon the will of God, but he had not only based natural law on right reason — he had also asserted that the

25. SENT. III, qu. 12 CCC: ". . . nullus actus est perfecte virtuosus nisi voluntas per illum actum velit dictatum a recta ratione propter hoc quod est dictatus a recta ratione."

26. SENT. I, dist. xli, qu. 1 K: ". . . omnis voluntas recta est conformis rationi rectæ sed non est semper conformis rationi rectæ præviæ quæ ostendat causam quare voluntas debet hoc velle. Sed eo ipso quod voluntas divina hoc vult, ratio recta dictat quod est volendum."

27. SENT. III, 13 C: "Tunc arguo sic. Impossibile est quod aliquis actus voluntatis elicited contra conscientiam et contra dictamen rationis sive rectum sive erroneum sit virtuosus. Patet de conscientia recta: quia talis eliceretur contra præceptum divinum et voluntatem divinam volentem talem actum elicere conformiter rationi rectæ."

natural law is absolute,²⁸ immutable, and admitting of no dispensation.²⁹ And does not natural law, so defined, burst through the voluntarist framework that is clamped, perhaps somewhat arbitrarily, upon it? For it is difficult to conceive of a moral order as absolute, immutable, and without dispensation, when it is completely dependent upon the will of a divine sovereign.

Once again, however, the inconsistencies are but superficial. For Ockham distinguishes between the *ordained* or *ordinary power* of God, by which God has actually established a moral order (within the framework of which established economy the moral law is absolute, immutable, and without dispensation), and the *absolute power* of God, whereby God could order the opposites of the acts which He has, in fact, forbidden.³⁰ This teaching is not as complex as might at first appear to be. Ockham is merely applying to the realm of ethics a distinction which he regards as relevant to all operations of the divine will. What he is in fact assuming is this: that God's absolute power, subject though it can be to no limitation, *normally* expresses itself, nevertheless, in accordance with the supernatural or natural order which has been ordained. Thus, as Christians, we must believe that God guarantees to fulfill the divine promises contained in the Scriptures, and, even as philosophers we can safely assume that the order apparent in nature betrays certain constant rules according to which God will *normally* act. The big reservation assumed in this, and underlined by the use of such qualifications as "by the common law" or "in the present order," is that God, of His absolute freedom and power, could always abrogate the present economy, or transcend it, as He does in the case of miracles.

Experience teaches us, for example, that water dampens, fire burns, and so on; nevertheless, by the absolute power of God, these effects need not necessarily proceed from their causes — think, for example, of the case of Daniel's three companions, Shadrach, Meshach, and Abednego, whom King Nebuchadnezzar threw into the fiery furnace but who emerged unscathed.³¹ Similarly, although we normally assume that it is good to love God and bad to hate Him, nevertheless God could, of His absolute power, make it meritorious to hate Him, since acts are good and just, or bad and unjust, not of

28. DIAL. III, II, I, ch. 10, p. 878, lines 27-31, "Cum jus naturale sit naturale præceptum . . . præceptum autem naturale quoddam est absolutum absque omni conditione, modificatione seu determinatione, sicut 'Non coles deum alienum,' 'non mæchaberis,' et hujusmodi."

29. DIAL. III, II, III, ch. 6, p. 932, line 65, ". . . quia jus naturale est immutabile primo modo et invariabile ac indispensabile."

30. OPUS NONAGINTA DIERUM ch. 95 (no foliation) (Lyons: Jean Trechsel, 1495). See esp. § *Nota de duplici potentia dei*.

31. *Id.* at § *Hereticum est dicere omnia de necessitate evenire*.

their own nature or essence, but simply because God has enjoined or forbidden them.³² Thus when Ockham speaks of a natural law which is absolute, immutable, and admitting of no dispensation, he is thinking within the framework of the ordained or ordinary power of God. Thus it is that he can tell us that "in the present order, no act is perfectly virtuous unless elicited in conformity with right reason,"³³ and can speak of an act of will which is "intrinsically and necessarily virtuous, given the divine order."³⁴ Indeed, his very use of qualifications like *in the present order* and *given the divine order* is significant.

II

Our conclusion, therefore, can only be this: that Gierke, after all, was right to brand Ockham as a legal voluntarist, and that Shephard's criticism fails to do justice either to the profundity of Gierke's scholarship or to the consistency and rigor of Ockham's thinking. Nor was this way of thinking without subsequent adherents. The history of the voluntarist interpretation of natural law has yet to be written, and it forms something of a subterranean stream in late-medieval and modern thought. This much, however, is apparent: that having been formulated with clarity by Ockham, it was propagated by his philosophical descendants, the nominalist philosophers who became so prominent in the later Middle Ages. Notable among these were Gerson and d'Ailly, of whom we have already heard,³⁵ and whose works were widely read in the fifteenth and sixteenth centuries. And to their names may be added those of Gabriel Biel (d. 1495), Jacob Almain (d. 1515), John Major (d. 1540), and Alphonse de Castro (d. 1558) — all of whom were cited in 1612 as proponents of the voluntarist theory by the Jesuit philosopher Suarez, whose own theory, indeed, bore the impress of this point of view.³⁶

Nor was this way of thinking limited to those whom we usually regard as scholastic philosophers. Luther was well acquainted with the writings of several of these men; and through him the voluntarist theory, complete with the characteristic distinction between the absolute and the ordinary

32. Cf. *op. cit.* *supra* notes 22 and 24.

33. SENT. III, 12 CCC, ". . . stante ordinatione quæ nunc est nullus actus est perfecte virtuosus nisi conformiter eliciatur rationi rectæ actualiter inhærenti.

34. SENT. III, 12 CCC, ". . . aliquis actus voluntatis qui est intrinsece et necessario virtuosus stante ordinatione divina."

35. See notes 4 and 5 *supra*.

36. "De Legibus, ac Deo Legislatore," Bk. 1, ch. 5, 8-9; 1 SELECTIONS FROM THREE WORKS OF FRANCISCO SUAREZ, S.J. 26 (Oxford, 1944).

powers of God, seems to have made its way into Protestant theology³⁷ — Calvin, for example, being notably unambiguous on this point.³⁸ The persistence into the seventeenth century of this interpretation of natural law is manifest in Suarez's *Treatise on Laws*,³⁹ and Suarez was by no means alone. Earlier in the same century, Grotius (who was later to change his mind) had adopted a similar position in his *Commentary concerning the Law of Booty*⁴⁰ and Locke's early essays on the natural law — published for the first time in 1954 — reveal that he, too, at least in his early years, had voluntarist inclinations.⁴¹ A few years later, Hobbes⁴² and Pufendorf⁴³ were to conceive of natural law in similar terms, but the ultimate fate of the tradition is obscured partly by the growing lack of interest in the divine origin of the natural law, and even more by the characteristic imprecision of eighteenth century thinking on the subject — though, if we were to look, we would find Blackstone, over a century later, speaking of the natural law which governs man as "the will of his maker."⁴⁴

III

We have been speaking, so far, about the *nature* of natural law. At this stage, however, we must face a question of a more practical character. Granted that Ockham, instead of regarding the natural law "as the dictate of reason as to what is right, grounded in the Being of God, but unalterable even by Him," reduced all moral laws to inscrutable divine commands, "right and binding merely because God was the lawgiver" — granted all this, is not the outcome, in practice, the same? Ockham remained, after all, a firm believer in the natural law, and it has been said that, with regard to insistence upon the law and dislike of arbitrary power, the principles of Ockham

37. 43 D. MARTIN LUTHERS WERKE 71 (Weimar, 1912), 'Vorlesungen über 1 Mose,' Kap. 19, 14; cf. also, Kap. 19, 17-20 and Kap. 20, 2.

The voluntarist character of Zwingli's view of natural law has been pointed out by John T. McNeill, *Natural Law in the Teaching of the Reformers*, 26 THE JOURNAL OF RELIGION 177-178 (1946); and Georges de Lagarde sees in the juridical thought of the reformers in general, a reiteration of the nominalist idea of law—RECHERCHES SUR L'ESPRIT POLITIQUE DE LA RÉFORME 166-167 (Douai, 1926).

38. JOHANNIS CALVINI INSTITUTIO CHRISTIANAE RELIGIONIS (Berlin, 1846), p. 486; Lib. IV, ch. 20, § 16.

39. Bk. II, ch. 6, 20-23; 1 SELECTIONS 126-128.

40. DE JURE PRAEDAE, COMMENTARIUS, ed. H. G. Hamaker (The Hague, 1868), ch. 2, pp. 7-8. This work was written in the winter of 1604-5, but rediscovered only in 1864 and first published in 1868. In his later and more famous *De Jure Belli et Pacis*, Grotius abandoned this position in favor of an extremely rationalistic interpretation—see the edition of William Whewell (Cambridge, 1853), Bk. I, ch. 1, X, 1-2, pp. 10-11.

41. W. VAN LEYDEN (ed.), JOHN LOCKE: ESSAYS ON THE LAW OF NATURE (Oxford, 1954).

42. LEVIATHAN, Part II, ch. 30-31, ed. Michael Oakshott (Oxford, 1946), pp. 219-235.

43. See his DE JURE NATURAE ET GENTIUM, Lib. II, c. 3, § XX (London, 1672), p. 191.

44. COMMENTARIES ON THE LAWS OF ENGLAND (New York, 1830), p. 26; Sect. II, 40.

do not differ materially from those of Aquinas. Have we, perhaps, made too much of the changes wrought by Ockham?

The answer to this question can only be a firm negative. Jerome Hall has recently suggested that the voluntarist phase of natural law thinking actually encouraged legal positivism in its definition of law as the command of the sovereign, and has claimed that "an examination of certain natural law writing is illuminating as regards the source of some of the basic legal ideas which are usually assumed to be the invention of the positivists."⁴⁵ Hall does not, it is true, fully document his assertions, but there can be little doubt that he is basically correct.

It will be remembered that Aquinas's theory of natural law involved a definition of law in general. Law, for him, was "something pertaining to reason," it was "a rational ordering of things," it was "a rule or measure of action in virtue of which one is led to perform certain actions and restrained from the performance of others." Ockham, however, substituted a different theory of natural law, and it is clear that the change must necessitate also a different definition of law in general. I am, alas, unable to cite relevant texts from Ockham himself, but perhaps the words of Pierre d'Ailly, one of his more faithful philosophical disciples, will suffice. For d'Ailly regards obligation as the distinguishing mark of law and argues, therefore, that a law must take the form of precept or prohibition, of the command to do something or not to do it.⁴⁶ He agrees that custom is said, with the lapse of time, to have the force of law, but insists that it carries no weight, even against human positive law which can abrogate it.⁴⁷ He can conclude, therefore, that it is legitimate to apply to the pope the Roman legal maxim that "the Prince is bound by no law" — not even those laws which he himself has made — so long as it is remembered that this refers to human and not to divine law.⁴⁸ For "just as the divine will," he says, "is the first efficient cause in the genus of efficient causality, so also is it the first obligating rule or law

45. STUDIES IN JURISPRUDENCE AND CRIMINAL THEORY 31-32 (New York, 1958).

46. *Utrum Petri Ecclesia*, in J. GERSON, OPERA OMNIA, ed. Ellies du Pin (Antwerp, 1706), I, col. 663: "... lex divina sumitur pro lege divinitus inspirata: qualis est lex Moysis, vel Christi. Uno modo, potest sumi pro aliqua una regula data a Deo aliquid præcipiente, vel prohibente. Alio modo, pro aliqua una congregatione plures tales regulas continente: qualiter tota doctrina Christi dicitur lex Christi. . . . Sed sic capiendo, potest sumi stricte, pro aliqua tali congregatione solum continente præcepta et prohibitiones; quia hæc duo solum pertinent ad legem proprie dictam."

47. See *Tractatus de ecclesiastica potestate*, in GERSON, II, col. 933; *Tractatus II adversus Cancellarium Parisiensem*, in GERSON, I, col. 773.

48. *Tractatus de materia concilii generalis*; Paris, Bibl. Nat., Ms. Lat. 1480, fol. 108r: "... Et hoc ideo dicit quia princeps legibus solutus est, ut in dicto cap. *Significasti*. . . . Sed quod dicit hic glossa quod princeps est solutus legibus, intelligit hæc opinio de legibus humanis ab ipso editis. De legibus autem divinis . . . non concedit."

in the genus of obligating law,"⁴⁹ and "no edict of a prince, precept of a prelate, political statute or ecclesiastical decree is just or justly obligatory, unless it is in conformity with the divine law."⁵⁰

Perhaps the most interesting thing about this is that these words could almost equally well be attributed to Bodin, the self-styled father of the notion of sovereignty. Nor should this be surprising. For in their legal voluntarism or positivism the nominalist philosophers joined hands with the Roman lawyers⁵¹ — in particular, with the school of the Post-Glossators, the most famous of whom were Bartolus and his pupil Baldus,⁵² and among the descendants of whom Bodin was proud to count himself.⁵³ And this is not merely to say that the nominalists adopted legal views parallel to those of the Post-Glossators, but, further, that they actually exerted an influence upon them.

It is admittedly difficult to establish the probability of such an influence, but it is not impossible. If, for instance, we turn our attention to the England of the early seventeenth century (on the face of it, as the home of the common law, unpromising ground), we find that the issue was being joined between royal claims to absolutism and parliamentary claims to a greater control over the government of the country. One of the crucial areas in this constitutional struggle was, of course, the extent of the king's prerogative powers in matters of taxation, and, in 1606, this led to a famous legal decision in the case known as *Bate's* case. The details of this case do not concern us here, but Holdsworth has described the decision of the Chief Justice (or, rather, the Chief Baron) as the first clear statement of the new royalist theory that the king had "an overriding absolute prerogative to deal with matters of State," or "a general absolute prerogative to act as he pleased, which he could use whenever he saw fit."⁵⁴ The case is clearly an important one, and the wording of the Chief Baron's decision is highly significant. "The King's power," he says,

is double, ordinary and absolute, and they have several laws and ends.

49. *QUAESTIONES SUPER I, III ET IV SENTENTiarum* (Lyons, 1500), I, qu. 14, art. 3, Q, f. 173r: ". . . sicut voluntas divina in genere efficientis est prima efficiens causa, sic ipsa in genere legis obligantis est prima lex seu regula obligatoria."

50. *Princ. in Ium Sent.*, E, f. 21v: "Ex quo sequitur quod nullum principis edictum, praelati praeceptum, politice statutum aut Ecclesiae decretum est justum vel juste obligatorium, nisi sit divinae legi consonum."

51. Cf. R. W. and A. J. CARLYLE, 6 *A HISTORY OF MEDIEVAL POLITICAL THEORY* 419 (Edinburgh and London, 1936).

52. Bartolus was born in 1314 and died c. 1357 — see C.N.S. WOOLF, *BARTOLUS OF SASSOFERATO* (Cambridge, 1913). The Post-Glossators were often known as *Bartolists*. For a bibliographical sketch on Baldus (1314-1400), see J. D. WILSON, *Baldus de Ubaldis*, 12 *YALE LAW JOURNAL* 8-20 (1902).

53. See H. D. HAZELTINE, Introduction to WALTER ULLMANN, *THE MEDIEVAL IDEA OF LAW* xxv (London, 1946).

54. W. S. HOLDSWORTH, 6 *A HISTORY OF ENGLISH LAW* 21 (London, 1924).

That of the ordinary is for the profit of particular subjects, for the execution of civil justice, the determining of *meum* . . . and by the civilians is nominated *jus privatum* and with us common law; and these laws cannot be changed without parliament. . . . The absolute power of the King is not that which is converted or executed to private use, to the benefit of any particular person, but is only that which is applied to the general benefit of the people, and is *salus populi*; as the people is the body and the King is the head . . . and as the constitution of this body varieth with the time, so varieth this absolute law according to the wisdom of the King, for the common good.⁵⁵

If this were not an English case, and if we were not, perhaps understandably, a little skeptical about the impact of theological modes of thought upon legal matters, this distinction between the absolute and the ordinary powers of the king might look suspiciously analogous to the nominalist distinction between the absolute and the ordinary powers of God. It is certainly a new distinction in English law, and Holdsworth can only suggest as its origin a somewhat similar distinction used in the fifteenth century to elucidate "the difference between the common law administered in the common law courts and the equity administered in the Chancery."⁵⁶ But what Holdsworth overlooked was this: that in 1605, only a year before Bate's case, Albericus Gentilis, the Italian jurist who taught Civil Law at Oxford and who is usually classed as a Bartolist or Post-Glossator,⁵⁷ had clearly enunciated this same distinction between the absolute and the ordinary powers of the prince, saying that the absolute power (which in England is called the prerogative) is the very plenitude of power, and, unlike the ordinary, is subject to no law.⁵⁸ More significantly, in making this distinction, Albericus had referred back for his authority to the fourteenth century Post-Glossator, Baldus. Now Baldus was a contemporary of Ockham.⁵⁹

Those who are convinced that theology has little influence on anything — even religion — will no doubt be disposed to dismiss as an interesting coincidence the striking analogy which exists between the distinctions employed by these two contemporaries in their respective fields of theology and law. To these, the skeptical, I would suggest three considerations. In the first place, law has not always been as divorced from theology as it is today,

55. T. B. and T. J. HOWELL (ed.), *A COMPLETE COLLECTION OF STATE TRIALS*, II, col. 389 (London, 1816).

56. 2 *A HISTORY OF ENGLISH LAW* 597 (London, 1923). An echo of this usage is to be heard in SIR EDWARD COKE, *THE FOURTHE PART OF THE INSTITUTES OF THE LAWS OF ENGLAND* ch. 8, p. 79 (London, 1797).

57. Hazeltine, *op. cit. supra* note 53, at xxv.

58. *Regales Disputationes Tres*, Disp. Prima, p. 10; the relevant text is cited in CARLYLE, 6 *A HISTORY OF MEDIEVAL POLITICAL THEORY* 452, n. 2.

59. Ockham was born c. 1288 and died c. 1350.

and the Post-Glossators, in particular, are known to have drawn upon scholastic ideas concerning government, law, and justice.⁶⁰ In the second place, if the gulf between theology and law still seems too wide to justify the transference of ideas from one to the other, perhaps the canon law might be regarded as a possible intermediary, and, in fact, it is true that in at least one canonical treatise, this same distinction is known to have been made between the absolute and the ordinary powers — in this case, of course, of the pope.⁶¹ In the third place, and a little closer to home, in 1610 — four years after Bate's case — the analogy was explicitly drawn, and by no less a person than James I himself in a speech delivered to Parliament.⁶² In this speech, James insisted that the king is accountable for his actions to God alone, and argued that "if you will consider the attributes of God you will see how they agree in the person of a king." For just as God has the power to create or destroy, so also kings have the power to make and unmake their subjects, to exalt the low and abase the high, and, in his own memorable phrase, to "make of their subjects like men at the chess." And, having said this, he adds the following comment:

But now in these our times we are to distinguish between the state of kings in their first original and between the state of settled kings and monarchs that do at this time govern in civil kingdoms; for even as God, during the time of the Old Testament, spake by oracles and wrought by miracles, yet how soon it pleased him to settle a Church . . . then there was a cessation of both. He ever afterwards governing His people and Church *within the limits of His revealed will*. So in the first original of kings, whereof some had their beginnings by conquest and some by election of the people, their wills at that time served for law; yet how soon kingdoms began to be settled in civility and policy, *then did kings set down their minds by laws*, which are properly made by the king only, but at the roagation of the people, the king's grant being obtained thereunto.

Historians have usually been impatient of James' frequent theological similes and have tended to regard them as merely the sugar coating designed to render the swallowing of the pill of prerogative a little less distasteful. But may I suggest that in so doing they have been adopting an anachronistic attitude towards statements which were intended in a serious and literal sense, and which are historically valuable as indications of the ultimate theological

60. Cf. Hazeltine, *op. cit. supra* note 53, at xxii.

61. See H. JEDIN, *A HISTORY OF THE COUNCIL OF TRENT*, trans. E. Graf (St. Louis, 1957), p. 81, where he cites the *Tractatus alter de cardinalibus* (ca. 1448-1451) to this effect.

62. C. H. McILWAIN, *THE POLITICAL WORKS OF JAMES I* 307-310 (Cambridge, 1918).

origin of some of the modes of thought characteristic, not only of the king himself, or of his prerogative lawyers, but also of that whole juristic school, the most famous representative of which was Bodin?

IV

Those to whom this type of historical approach does not recommend itself may be inclined to dismiss reflections such as these as possibly of interest to the professional archaeologist of ideas but certainly of no wider relevance. To these I would, in conclusion and very tentatively, suggest the possibility of an alternative and perhaps less purely historical approach, an approach moving by way of the philosophical presuppositions which lay behind the legal views of Aquinas and Ockham. And what characterizes this approach is the belief that, as Oakeshott has said, there has probably been

no theory of the nature of the world, of the activity of man, of the destiny of mankind, no theology or cosmology, perhaps even no metaphysics, that has not sought a reflection of itself in the mirror of political philosophy.⁶³

— and therefore, we may add, of legal theory.

R. G. Collingwood has argued that "in the history of European thought there have been three periods of constructive cosmological thinking," by which he means three periods

when the idea of nature has come into the focus of thought, become the subject of intense and protracted reflection, and consequently acquired new characteristics which in their turn have given a new aspect to the detailed science of nature that has been based upon it.⁶⁴

The three ideas of nature which these periods have produced he calls the Greek, the "Renaissance,"⁶⁵ and the modern. The contrast between these ideas springs, he suggests, from the difference between their analogical approach to nature. The modern idea does not concern us here — suffice it to say that he regards it as based upon the analogy between the processes of the natural world as studied by natural scientists and the vicissitudes of human

63. MICHAEL OAKESHOTT (ed), *THE LEVIATHAN OF THOMAS HOBBS*, Introduction xix (Oxford, 1946).

64. *IDEA OF NATURE* 1 (Oxford, 1945).

65. As Collingwood himself admits (p. 4), "The name is not a good one, because the word 'Renaissance' is applied to an earlier phase in the history of thought, beginning in Italy with the humanism of the fourteenth century and continuing, in the same country, with the Platonic and Aristotelian cosmologies of that century and the fifteenth century. The cosmology I have now to describe was in principle a reaction against these and might, perhaps, be more accurately called post-Renaissance."

affairs as studied by historians. Turning to the two earlier "ideas," he argues that whereas the Greek view of nature as an intelligent organism was based on an analogy between the world of nature and the individual human being, the "Renaissance" view conceived the world analogically as a machine. Instead of being regarded as capable of ordering its own movements in a rational manner and according to its immanent laws, the movements which it exhibits are imposed from without, and "their regularity . . . due to 'laws of nature' likewise imposed from without."⁶⁶ Collingwood concludes, therefore, that this view presupposes both the human experience of designing and constructing machines, and the Christian idea of a creative and omnipotent God. This is, I believe, a good way of characterizing the change in approach which led to the development of the classical or Newtonian physical science. And it is relevant to our problem, as we shall see, because it indicates the role played in this development both by the Christian idea of an omnipotent God and by the concomitant idea of the imposed laws of nature.

But what reflection do these cosmologies find in the "mirror of political philosophy"? The answer to this question, I would suggest, is to be found in the three main patterns which, Oakeshott has claimed, "philosophical reflection about politics has impressed upon the intellectual history of Europe." The first of these patterns or traditions, he tells us,

is distinguished by the master-conceptions of Reason and Nature. It is coeval with our civilization; it has an unbroken history into the modern world; and it has survived by a matchless power of adaptability all the changes of the European consciousness. The master-conceptions of the second are Will and Artifice. It too springs from the soil of Greece, and has drawn inspiration from many sources, not least from Israel and Islam. The third tradition is of later birth, not appearing until the eighteenth century. The cosmology it reflects on its still unsettled surface is the world seen on the analogy of human history.⁶⁷

The coincidence of these traditions of political thought with Collingwood's "ideas of nature" is apparent and striking—the more so, indeed, in that they were formulated, not only independently of these ideas of nature, but also with an eye rather to the history of theories of knowledge than to the history of cosmological assumptions.⁶⁸ And the actual link between these traditions of political thought and the ideas of nature which correspond to them is to be found, I would further suggest, in the ideas of law which they share in common.

66. *Op. cit. supra* note 64, at 6.

67. *Op. cit. supra* note 63, at xii.

68. I owe this information to Professor Oakeshott in a private letter.

A. N. Whitehead, who, before Collingwood, had stressed the relevance of the Semitic concept of God to the development of the natural sciences in the sixteenth and seventeenth centuries,⁶⁹ distinguished between the two salient types of natural law which we have already seen related to Collingwood's Greek and "Renaissance" cosmologies. It is true that Whitehead, too, was concerned with analyzing cosmological assumptions, but the distinction is as valid and relevant in the juridical sphere as it is in the scientific.⁷⁰ It merits, therefore, closer consideration.

The theory of law as immanent, he argued, involves the assumption that things are interdependent in such a way that when we know the nature of things we also know their mutual relations with one another. "Some partial identity of pattern in the various characters of natural things issues in some partial identity of pattern in the mutual relations of these things." The laws of nature are the formulation of these identities of pattern. Thus it could be adduced as a law of nature that animals unite to produce offspring or that stones released in midair strive to reach the ground. This view of the laws of nature involves, he concluded, "some doctrine of Internal Relations," some notion that the characters of things are the outcome of their interconnections, and the interconnections of things the outcome of their characters" — and, we may add, it involves, therefore, a wholehearted subscription to an unambiguously Realist ontology.

The doctrine of imposed law, on the other hand, adopts the alternative metaphysical theory of external relations. Individual existents are regarded as the ultimate constituents of nature; and these ultimate constituents are conceived to possess no inherent connections one with another, but to be comprehensible each in complete isolation from the rest. The relations into which they enter are imposed on them from without, and these imposed behavior patterns are the laws of nature. It follows, therefore, that these laws cannot be discovered by a scrutiny of the characters of the related things, nor, conversely, can the nature of the related things be deduced from the laws governing their relations. It follows also, we may add, that such a view presupposes a nominalist epistemology and entails an empiricist science of nature.

With this distinction in mind it is revealing to glance back to the ideas of natural law and the laws of nature held in the centuries before Ockham. Immanent law is found to be typified by Stoic, perhaps even generally by Greek, views. These conceived of the material world as impregnated with reason, and regarded natural law as universally valid and inherent in the

69. SCIENCE AND THE MODERN WORLD 12-14 (New York, 1948).

70. ADVENTURES OF IDEAS 115-119 (New York, 1955). For an interesting attempt to apply the distinction to the juridical sphere see M. Ginsberg, *The Concept of Juridical and Scientific Law*, 4 POLITICA 1 ff. (1936).

very structure of things — so much so, indeed, that the Stoics could draw arguments for peace from the harmony of the celestial spheres. Imposed law, on the other hand, finds its best illustration in Semitic, and, in particular, in Jewish monotheism. For the God of the Old Testament gave to Moses the Ten Commandments, and “to the sea his law, that the waters should not pass his commandment.”⁷¹

And the Christian view? Whitehead’s comment was that it was a compromise between the immanence of law and imposed law due to the Platonism of Christianity.⁷² In this, as in so many other matters, it reflects an amalgamation of Semitic and Hellenic elements. This somewhat uneasy compromise is evident in Aquinas. His God is, admittedly, a Christian God, omnipotent and transcendent, but his eternal law is undoubtedly immanent in the universe. Thus although God is not thought of as being immanent in the world, it should be noted that the eternal law finds its ultimate foundation in the intellect, and, therefore, in the very being of God, so that Aquinas can at one point say that the eternal law is nothing other than God.⁷³

This quasi-immanentism involved an attempted Christianization of the Platonic doctrine of Eternal Forms or Ideas by means of the location of these Ideas in the divine mind as exemplars according to which God created the world, and it was hedged around with cautious qualifications. These qualifications, however, were clearly not cautious enough, and, in 1277, the bishop of Paris and the archbishop of Canterbury condemned a whole host of philosophical propositions, several of them Thomistic, as contrary to Christian beliefs.⁷⁴ In so acting, they followed in the footsteps of the Arab and Jewish theologians, who, before them had resorted to similar measures, and they reflected a fear, widespread among theologians of all three religions, that the metaphysical necessitarianism of Aristotle endangered the doctrine, common to Jews, Moslems, and Christians, of the freedom and omnipotence of God.

The condemnations marked the beginning of a theological reaction that was to vindicate the freedom and omnipotence of God at the expense of the ultimate intelligibility of the world,⁷⁵ and Ockham — a philosopher so often

71. Proverbs 8:29.

72. ADVENTURES OF IDEAS 139-140.

73. S. T., Ia 2æ, qu. 91, art. 1 *ad tertium*.

74. Etienne Gilson points out that the doctrinal act of 1277 traced the condemned errors to their very root, “namely, the Aristotelian identification of reality, intelligibility and necessity, not only in things, but first and above all in God.” HISTORY OF CHRISTIAN PHILOSOPHY IN THE MIDDLE AGES 407 (New York, 1955). See also pp. 728-729, where he lists some of the condemned propositions. One of them is: “That God necessarily produces what immediately follows from him.”

75. This amounted to an abandonment of any attempt to reconcile the Greek conception of a necessarily existing universe, ruled by strict necessity, with the Biblical notion of a

regarded as comparable with Hume — was the classic product of this reaction. Gilson has spoken of his thought as being a post-1277 theology “in a more than chronological sense,”⁷⁶ and as being dominated “by the first words of the Christian creed: I believe in one God, the Father Almighty.”⁷⁷ It is hardly surprising, therefore, that Ockham should have rejected the doctrine of the divine ideas, not only as introducing a heathen multiplicity into the Christian God, but also as implying a qualification of the divine omnipotence and freedom. Nor is it surprising that he should have viewed the divine liberty as similarly compromised by the realist connection of the natural moral law with the doctrine of the divine ideas, for the moral law, just as the whole of creation, must, he insisted, be utterly contingent upon the unhampered *fiat* of the divine will. And, believing this, he had no choice but to dismiss the traditional doctrine of the divine ideas, and the whole metaphysic of essences upon which it depended, as a pagan interpolation that had no place in any Christian philosophy.

Ockham's universe, therefore, is one in which a free and omnipotent God boldly confronts, without any *necessary* intermediaries, the things which he has created and which are radically contingent upon him. Hence, the dismissal of any necessary connections in nature between distinct things, even between cause and effect.⁷⁸ Hence, too, the belief that if we are to know the order of the world we can only examine what is *de facto*, for being completely dependent on the divine choice, it cannot be deduced by any a priori arguments.⁷⁹ Thus, from Ockham's fundamental insistence on the omnipotence and freedom of God follow, not only his nominalism, not only his ethical or legal voluntarism, but also his empiricism.

Now the lesson to be drawn from all this is that in a coherent philosophical system, given any *one* of the following elements, we should expect to find

freely created world, ruled by a free and omnipotent divine will. The Arab theologians had already faced the same problem and had adopted a comparable solution. Al Ash'ari (d. 936) and his followers vindicated the Semitic notion of God by adopting an atomistic view of the world as constituted of disjointed moments of time and points of space, connected together only by the will of God and possessing, therefore, no natural necessity. They held to this position so strictly that they were driven into a thoroughgoing occasionalism. See L. Gardet and M-M Anawati, *Introduction à la théologie musulmane*, 37 *ETUDES DE PHIL. MÉD.* 52-66 (Paris, 1948). This viewpoint was also adopted by early Jewish thinkers. See ERNEST RENAN, *AVERRÔES ET L'AVERRÔISME* 106 (Paris, 1861), and ISAAC HUSIK, *A HISTORY OF MEDIEVAL JEWISH PHILOSOPHY* xli (New York, 1958).

76. *Op. cit. supra* note 74, at 410.

77. *Id.* at 498.

78. Thus God can produce in us intuitions of nonexistent objections — *QUODLIBETA SEPTEM UNA CUM TRACTATU DE SACRAMENTO ALTARIS* (Strasbourg, 1491), *Quodl.* VI, qu. 6; English translation of this question in RICHARD MCKEON, 2 *SELECTIONS FROM MEDIEVAL PHILOSOPHERS* 372-375 (New York, 1930).

79. Cf. L. BAUDRY, *LE TRACTATUS DE PRINCIPIS THEOLOGIAE ATTRIBUÉ À G. D'OCCAM* Introduction 23 (Paris, 1936).

in conjunction with it the rest — a nominalist epistemology; an empiricist approach to natural science; and, if a conception of God is admitted, a voluntarist or imposed version of the natural law (both scientific and juridical) and a Semitic view of God which stresses above all his utter freedom and omnipotence. But, as we have seen, the voluntarist interpretation of the natural law tends to carry over into a positivist interpretation of law in general. In a very tentative way, therefore, I would proffer the general conclusion that the shift to the metaphysical presuppositions necessary for the development of an empirical or quasi-empirical natural science did much to encourage the growth of a full-blown legal positivism. This is very clear in a philosopher like d'Ailly, a man whose thinking embodies all the elements which we have linked together, who propounded a positivist theory of law in general, and, therefore, a voluntarist theory of natural law and of the laws of nature, and who made use of expressions such as "the machine of the universe,"⁸⁰ admitting the relevance to the world of the very clock analogy that was to become a cliché of eighteenth century deist theology.⁸¹ For just as the craftsman constructs a clock, so also, in an analogical way, God — whom he calls, consistently enough, "the supreme architect and artisan" — can be said to fashion the celestial machine.⁸² Admittedly, if we turn to the famous architects of the seventeenth century scientific revolution, men such as Robert Boyle and Sir Isaac Newton, while we do find that they incline to nominalism and empiricism and tend to view the laws of nature as imposed upon a mechanistic world by a God whose most striking attribute is his omnipotence, we also find that they were uninterested in matters juridical. The influence, however, of their type of thinking cannot lightly be dismissed, and there is one seventeenth century figure in whose thinking most of our requisite elements explicitly — and all of them implicitly — play their role. This man is the more important in that he occupies an admitted, indeed, a prominent place in the history of legal positivism. His name is Thomas Hobbes.

80. *Ymago Mundi*, ed. E. Buron, 3 vols. (Paris, 1930), II, p. 494.

81. *Tractatus de Legibus et Sectis*, in J. Gerson, *Opera Omnia*, ed. Ellies du Pin (Antwerp, 1706), I, col. 793: ". . . Et confirmatur ratio: quis si quis faceret horologium materiale, utique efficeret omnes rotas, motusque earum commensurabiles, quantum posset: quanto magis ergo opinandum est de architectore summoque opifice Deo, qui omnia fecisse dicitur numero, pondere et mensura."

82. *Ibid.*

NEWTON, MAIMONIDEAN*

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I

The triumph of the anti-Maimonidean ideology in Spain, bent on eradicating “heresy” from Israel, had a ripple effect as of yet unexplored by Jewish historians and other luminaries. It is not accurate that the anti-Maimonideans were against “assimilation” to non-Jewish ideas, as the magistrates of Jewish wisdom kindly moralize. In fact, the anti-Maimonideans were willing to take a lesson or two from those Christians who condemned men of the stature of William of Conches (ca. 1090–ca.1160), Peter Abelard (1079–1142), and Thomas Aquinas (1224/5–1274). These holy men would not shy away from learning from *any* persecuting ideology, regardless of religion or philosophical persuasion.¹ What they opposed were people like the Maimonideans who were spreading all types of silly, essentially harmful, ideas, like writing that sorcery and witchcraft are “lies and falsehood.” There is malice in these fabrications. They were designed to impugn the minds and judgment of those saintly men—the inerrantly pious—who not only witnessed demons but also kept daily contacts with them and other supernatural beings. In fact, all men of sound mind and spirit should reject the Maimonidean folly, especially in light of the unimpeachable evidence provided by “the science of necromancy.” As a good and wise doctor at the Sorbonne wrote in 1609 about those feeble souls denying night-flying witches, metamorphoses, etc., magical phenomena are so well attested to that they could be “disbelieved only by those of unsound mind.”²

The anti-Maimonidean society is, primarily and fundamentally, a persecuting society.³ It seems that Gresham’s law of economics,

* Reprinted from *Review of Rabbinic Judaism* 6:2–3, 2004, pp. 215–249.

¹ See José Faur, *In the Shadow of History: Jews and Conversos at the Dawn of Modernity* (Albany, 1992), pp. 9–27.

² See José Faur, “Anti-Maimonidean Demons,” in *The Review of Rabbinic Judaism* 6, 1, 2003, pp. 3–52.

³ See Faur, *In the Shadow of History*, pp. 2, 6, 215–217. A telling detail, indicative of the supreme authority exercised by the anti-Maimonideans: throughout the

whereby bad money drives good money out of circulation, applies to political and social leadership as well.⁴ A society that accepts magic and the reveries of lunatics as God's True Word would not tolerate rational discourse—least of all the scientific study of nature or an intelligent consideration of Judaism. Thus, creative thinking, let alone scientific knowledge, was no longer tolerated. This explains the sad fact that most of the creative thinking in the sciences, humanities, and literature in Spain, was made by *conversos*. Yet nothing remotely similar was taking place within the confines of the Jewish communities.⁵ In this respect, after the Expulsion (1492) things got worse, not better. The few men who preserved some vestige of the old Jewish scientific tradition—I am thinking about such distinguished figures as Rabbis Moses Almosnino (c. 1515–1589), David Gans (1541–1613), Joseph Del Medigo (1591–1655)—were working with medieval concepts, no longer on a par with the scientific outlook unfolding at their time. The few creative minds had to tread carefully. On the instigation of Sabbatean sympathizers, R. David Nieto (1654–1728), rabbi of the Sephardic community in London, was about to be excommunicated for a sermon he pronounced in his own synagogue.⁶ R. Israel Moses Hazan (1807–1863), who had been the Chief Rabbi of Rome, Corfu, and Alexandria, was ferociously persecuted by his semi-literate colleagues.⁷ R. Elie Benamozegh (1822–1900), Chief Rabbi of Leghorn, one of the most distinguished communities in Europe, was declared a heretic and his books banned, etc.⁸ We often forget that Jews were able to produce a Freud or an Einstein not as the result of some

communities around the Mediterranean Basin and the Middle East (with the exception of Yemen) is yet to be found a single scroll of the Torah written according to the format prescribed by Maimonides! This is true even in Aleppo, home of the famous codex of Maimonides' *Keter Aram Soba*. Cf. Faur, "Anti-Maimonidean Demons," nn. 23–24.

⁴ Cf. Faur, *In the Shadow of History*, pp. 21–22.

⁵ *Ibid.*, p. 2.

⁶ On the content and significance of this sermon, see José Faur, *Golden Doves and Silver Dots: Semiotics and Textuality in Rabbinic Tradition* (Bloomington, 1986), pp. 19–22.

⁷ See José Faur, *Rabbi Yisrael Moshe Hazan* (Heb.) (Haifa, 1978), pp. 15–18.

⁸ The impact on his family and personal life was devastating. However, on behalf of the persecuting rabbis one may point out that this was not a case of simple malice. As always, the "heretical" view of the "other" is connected to pecuniary gain. In our case, R. Benamozegh owned one of the largest printing houses of Hebrew books in Leghorn. Declaring him "heretical" meant that the books he printed must be proscribed, regardless of content. Consequently, competing firms, which until now could not enter the market, gained the upper hand. A few years

internal development but simply because universities decided to open their doors to Jews without demanding prior conversion. One can only ponder what the state of Jewish scholarship today would have been (including the fields of Talmud and Rabbinics), if it were not for the “Jewish Studies Programs” at universities world-wide.

It should not be surprising to discover, therefore, that some Jewish thinkers, particularly those professing the kind of religious humanism and pluralism developed by the Maimonidean tradition, chose to share their knowledge and exchange ideas with members of the Christian intelligentsia, many of them distinguished Hebraists in their own rights.⁹ One such individual was R. Isaac Abendana (c. 1640–c. 1710), brother of R. Jacob Abendana (1630–1685), Chief Rabbi of Amsterdam. He arrived in England in 1662. Abendana was an extremely talented and accomplished scholar. At the urging of Cambridge theologians he translated for the first time the entire Mishnah into Latin.¹⁰ His book, *Discourses on the Ecclesiastical and Civil Polity of the Jews* (London, 1706; 2nd edition 1709) is the first work written by a Jew in English. While at Cambridge he kept contact with the scholarly community at Oxford. Eventually, he moved to Oxford in 1689 and taught Hebrew at Magdalene College. In a work published in 1710 we are told, “Dr. Abendana assisted Dr. [Thomas] Hyde [1636–1703]. . . . The said Dr. [Abendana] was himself the author of the Hebrew tract (written in a florid style) concerning Chess, published as an old piece by Dr. Hyde.”¹¹

ago in Leghorn, on the one hundred year anniversary of Benamozegh’s death, I pointed out that as a result, he no longer would append his full signature to the books he printed and his editorial notes, but only the initials **נאמ**, standing for Eliahu ben Amozegh.

⁹ See the important work of Aaron L. Katchen, *Christian Hebraists and Dutch Rabbis* (Cambridge, MA, 1984). On the impact of Maimonides in particular, see *ibid.*, chapter 3. On the impact of Maimonides on sixteenth and seventeenth century Englishmen, such as Hobbes, Milton, John Smith, John Spencer, et al., see the stimulating note of J.L. Teicher, “Maimonides and England,” in *Transactions, Jewish Historical Society of England* 16 (1950), pp. 97–100.

¹⁰ See Israel Abrahams, “Isaac Abendana’s Cambridge Mishna and Oxford Calendars,” in *Transactions, Jewish Historical Society of England* 8 (1915–1917), pp. 98–121; and *idem*, “Note on Isaac Abendana,” in *Transactions, Jewish Historical Society of England* 10 (1921–1923), pp. 221–224. For some valuable notes on Isaac and Jacob Abendana, see M. Kayserling, “Les Correspondants Juifs de Jean Buxtorf,” in *Revue des Etudes Juives* 13 (1886), pp. 272–276.

¹¹ Cited by William D. Macray, “A letter from Isaac Abendana,” in *Festschrift zum . . . Moritz Steinschneider’s* (Leipzig, 1896), p. 89.

Elsewhere I proposed that Abendana was Isaac Newton's (1643–1727) Hebrew teacher.¹² Abendana began teaching Hebrew at Cambridge in 1663, a year after Newton entered Trinity College. Newton was an excellent Hebraist. Although only a small portion of Newton's library was saved (see below section III), several Hebrew Bibles, Buxtorf, *Lexicon Hebraicum* (1621), Robertson, *Lexicon Hebraeum* (1680), as well as many works on Jewish subjects were found in the remains of his library.¹³ Newton's knowledge of Rabbinics was simply amazing. In the course of a Rabbinic discussion, Newton records the opinion of R. Aharon ha-Levi (thirteenth century), the supposed author of *Sefer ha-Hinnukh*,¹⁴ and his disagreement with Rashi on the matter at hand. He also refers to the Rabbinic work Sifra as well as to the view of R. Aaron ibn Hayyim (b. ca. 1560), author of *Qorban Aharon* (Venice, 5369/1609).¹⁵ Later on, he examined *Seder Ma'amadot* (the participation of the Israelites in the daily sacrifices) and quoted the opinion of R. 'Obadiah of Bertinoro on M. Yoma 7:1.¹⁶ In a discussion of the apocalyptic conflict of Gog and Magog, he made reference to the Targum to Esther (2:12), to the Rabbinic work Leviticus Rabbah, and to the commentaries of Se'adya Ga'on and Ibn 'Ezra.¹⁷ In his *Chronology of Ancient Kingdoms* (London, 1727), Newton cites Yerushalmi Shebi'it (p. 198) and Seder 'Olam (p. 357).¹⁸ In his work *The Sacred Cubit of the Jews*, published in the *Collected Works* of John Greaves (London, 1738), he alludes to the commentary of R. Obadiah of Bertinoro on M. Erubin 4:5 (s.v. *ella*) (p. 421); he translates the Aramaic version of Ruth 1:6 in conjunction with the distance a Jew is permitted to travel by foot on the Sabbath and holidays (pp. 422–423); cites a passage in the Talmud (B. Erubin 42a) and the note on it in *Shibbole ha-Leqet* (by R. Sidiqiyya ha-Rofe, Venice 5306/1546, #97) (p. 423); and also makes reference to the two cubits that were engraved

¹² José Faur, "Newton, Maimonides, and Esoteric Knowledge," in *Cross Currents: Religion & Intellectual Life* 8 (1990), p. 528.

¹³ See Richard de Villamil, *Newton: The Man* (London, 1927), p. 67, and *ibid.*, "Supplementary List," p. 105.

¹⁴ There is a book by Johann Heinrich Hottinger, *Juris Hebraeorum* (Zurich, 1655), based on this work.

¹⁵ See Yah. Ms. 13.2, 21b–22a.

¹⁶ Yah. Ms. 13.2, 22b.

¹⁷ See H. McLachlan, *Sir Isaac Newton Theological Manuscripts* (Liverpool, 1950), p. 135.

¹⁸ There is a Latin translation of this work by Gilbert Générard, *Chronologia Hebraeorum Maior* (Paris, 1578).

in the city of Shushan (B. Pesahim 86a) (p. 425). There are some Hebrew writings in Newton's own hand¹⁹ as well as extensive passages from the Babylonian Talmud and Yerushalmi in Latin in his own hand.²⁰ With the exception of Nieto and Abendana, no other scholar in England at the time, Jew or Christian, equaled his mastery of Jewish knowledge.

A copy of Abendana's first edition of *Discourses on the Ecclesiastical and Civil Polity of the Jews* (1706) was found in Newton's library.²¹ Indeed, many of the subjects subsequently developed by Newton are found in Abendana's book. From his teacher, Newton must have gotten his keen interest in the Jewish calendar.²² I would like to call attention to Yah. Ms. 22, a work by Newton on the Calendar, "Considerations about rectifying the Julian Kalendar." On p. 4 of the ms. is a quotation from Maimonides' *Qiddush ha-Hodesh* in the Jewish calendar, taken from Ludovicus de Compiegne de Veille, *Secunda Lex, Tractatus de Conservatione Calendarum* (Paris, 1669)—a favorite topic of Abendana.²³ Again, in line with Abendana's interest in Jewish measurements,²⁴ there is a detailed investigation by Newton of the Jewish cubit. A short tract by Newton, *The Sacred Cubit of the Jews*, was published in the *Collected Works of John Greaves* (London, 1738), pp. 405–433. From Abendana, too, he must have gotten his keen interest in Maimonides. In addition to four books of Maimonides' Legal Code in Latin,²⁵ as well as Pococke, *Porta Mosis* (1655) in Hebrew

¹⁹ See Ms. Yahuda (at the Hebrew National Library, Jerusalem) 13.2, pp. 5b, 17a–b, 18a, 19a, 22b; Ms. Keynes 2, p. 17a.

²⁰ See *A Catalogue of the Portsmouth Collection of Books and Papers Written by or Belonging to Sir Isaac Newton*, prepared by H.R. Leard, G.G. Stokes, G.C. Adams, G.D. Liveing (Cambridge, 1888), p. 29 #2; Yah. Ms. Var. 13.2, 18a–22b. On the Latin translations of the Talmud, see Erich Bischoff, *Kritische Geschichte der Talmud-Übersetzungen* (Frankfurt, 1899).

²¹ See de Villamil, *Newton: The Man*, p. 63.

²² See *ibid.*, pp. 81 (*Jewish Kalendar*), 87 (Munster, *Kalendarium Hebraicum*), 94 (*Rule for Finding Easter*, &c). In *Chronology of Ancient Kingdoms* (London, 1727), p. 77, he referred to the intercalation of the year of the Jewish calendar, as well as the years of the kings among Jews, *ibid.*, p. 296. By contrast, *ibid.*, p. 298, he made reference "to the vulgar Aera of Christ." On Abendana's Jewish calendars, see "Isaac Abendana's Cambridge Mishna and Oxford's Calendars," pp. 117–121.

²³ See Isaac Abendana, *Discourses on the Ecclesiastical and Civil Polity of the Jews* [henceforth: *Discourses*] (London, 1706), pp. 171–198; and "Isaac Abendana's Cambridge Mishna and Oxford Calendars," pp. 104–107.

²⁴ See *Discourses*, pp. 198–200.

²⁵ See *A Catalogue of the Portsmouth Collection*, p. 85.

and Latin found in his library,²⁶ there are thousands of words copied by Newton from Maimonides' legal writings in Latin.²⁷ Abendana completed a Latin translation of Maimonides' work on *The Vessels of the Temple*.²⁸ There are long excerpts of the Latin translation of Maimonides' *De Cultu Divino* in Newton's own handwriting.²⁹

II

Newton's religious views affected his scientific writings.³⁰ David Castillejo (who catalogued the Newton manuscripts in the Yahuda collection at the Hebrew University) noted the remarkable fact that Newton used certain numerological symbolism, particularly the numbers three, seven, and ten taken from the Temple of Solomon to structure his *Opticks*. According to Newton, the Temple was built horizontally in units of ten, and vertically in units of three, seven, and eight. His *Opticks* consists of seven books arranged into three parts. It opens with eight Definitions, eight Axioms, and eight Propositions, a triple row of eights. "It is likely," wrote Castillejo, "that this is only the tip of an iceberg revealing the presence of much more complicated meaning, proportion, and intent in his work."³¹

Newton's interest in Rabbinics and Maimonides was not mere intellectual curiosity. It affected his most intimate religious beliefs and his Christianity. "[T]here was something sinister in his religious beliefs," we are told.³² Bishop Horsley (1773–1806), who examined

²⁶ *A Catalogue of the Portsmouth Collection*, p. 91.

²⁷ See, for example, *A Catalogue of the Portsmouth Collection*, p. 29 #2, and p. 30 #16; Yah. Ms. 13.2, 1a–18a. Cf. McLachlan, *Sir Isaac Newton Theological Manuscripts*, p. 16. He seems to have used the translation of Ludovicus de Compiegne Veille, *De Cultu Divino* (Paris?), cf. Newton, "The Language of the Prophets," in Keynes Ms. 5, chapter 2, pp. 9, 10. On the translations of Maimonides' *Mishne Torah* to Latin, see *Christian Hebraists and Dutch Rabbis*.

²⁸ See W.D. Macray, "A letter from Isaac Abendana," p. 90; and Israel Abrahams, "Note on Isaac Abendana," in *Transactions, Jewish Historical Society of England* 10 (1921–1923), pp. 221–224.

²⁹ See above, n. 27.

³⁰ I hope to develop this theme in a forthcoming study.

³¹ David Castillejo, "A Report on the Yahuda Collection of Newton's MSS," found in the file on Newton at the Jewish National and University Library at Jerusalem, p. 8.

³² Louis Trenchard More, *Isaac Newton: A Biography* (New York, 1962), p. 631.

some of Newton's papers on theology, declared them unfit for printing. Sir David Brewster (1781–1868), Newton's famous biographer, believed that bishop Horsley "exercised a wise discretion" in not allowing their publication. In the name of Christian charity, Brewster refused to formally declare Newton a "heretic." Piously, he explained:

It may be an ecclesiastical privilege to burrow for heresy among the obscurities of thought, and the ambiguities of language, but in the charity which thinketh no evil, we are bound to believe that our neighbor is not a heretic till the charge against him has been distinctly proved.³³

A cursory examination of some of his theological views published thus far makes it abundantly clear the reason for the horror that they caused. The papers reveal that Newton was a strict monotheist. He saw no need for a new revelation and rebuffed the Christian notion of atonement and salvation. Siding with Rabbinic tradition and *contra* Christian doctrine, he maintained that the Noahide precepts alone suffice for salvation, and thus there is no need for Jesus' expiatory death.³⁴ In opposition to Christian doctrine, he proposed that the Church derives from the Synagogue—not the Temple—"the name of synagogues being changed to that of churches" by converted gentiles.³⁵ Therefore, not only does he refer to the Jewish "Church" but also to the Christian "Synagogue."³⁶ This is consistent with Newton's view that the fundamentals of Judaism and Christianity are the same: "love of God and love of humankind."³⁷ More grievously, Newton was resolute in his belief that the Law of Moses was not abrogated with the advent of Christianity. Referring to the Gospels, he writes: "It is as much the law of God as the Law of Moses was, and as unalterable."³⁸

³³ Sir David Brewster, *Memoirs of the Life, Writings, and Discoveries of Sir Isaac Newton* (Edinburgh, 1855), vol. 2, p. 340.

³⁴ See Richard S. Westfall, *Science and Religion in Seventeenth-Century England* (New Haven, 1958), p. 208.

³⁵ See McLachlan, *Sir Isaac Newton Theological Manuscripts*, pp. 39–40, cf. pp. 16–17. Cf. José Faur, "Law and Hermeneutics in Rabbinic Jurisprudence: A Maimonidean Perspective," in *Cardozo Law Review* 14 (1993), pp. 1673–1764.

³⁶ Cf. McLachlan, *Sir Isaac Newton Theological Manuscripts*, pp. 38, 41, etc.

³⁷ See *ibid.*, p. 28.

³⁸ *Ibid.*, p. 35.

Therefore, the Christian Scripture must be understood in light of the Hebrew Scripture, and not the other way around:

[I]f any question at any time arises concerning his [Jesus'] interpretations, we are to have recourse to the Old Testament and compare the places interpreted with the interpretations of the New. As, for instance, in explaining why Jesus is called the Christ or Messiah, the Son of Man, the Son of God, the Lamb of God and the Lord who sitteth on the right hand of God, the God who was made in the beginning with God and by whom all things were made. And by this means the Old Testament will be better understood. So then for the names of Christ we are to have recourse to the Old Testament, and beware of vain Philosophy, for Christ sent his Apostles not to teach Philosophy to the common people and to their wives and children, but to teach what he had taught, taken out of Moses and the Prophets and Psalms concerning Christ.³⁹

In full accord with Maimonides,⁴⁰ and *contra* the Church, Newton regarded the worship of intercessors as rank idolatry. In a passage discussing the worship of God, Newton writes:

These things we must do, not to any mediator between him and us, but to him alone, "that he may give his angels charge over us," who, being our fellow-servants, are pleased with the worship which we give to their God. And this is the first and principal part of religion. This always was and always will be the religion of all God's people from the beginning to the end of the world.⁴¹

Concerning prayers, he wrote: "We need not pray to Christ to intercede for us," adding: "If we pray the Father aright, he will intercede."⁴² Worshiping God means, "To love, fear and trust in, and seek unto one but himself immediately."⁴³ The last term "immediately" is of the essence and underlines the prohibition against saints, deities, etc., functioning as intercessors with God.

³⁹ Ibid., pp. 33–34.

⁴⁰ Moses Maimonides, *The Guide for the Perplexed* (henceforth: *Guide*), I, 61, p. 100 (ll. 20–29). All quotations proceed from the Arabic text, *Dalalat al-Ha'irin*, edited with variant readings by Issachar Joel (Jerusalem, 5691 [1930/31]); the translations are mine. Subsequent references are given in the text according to section, chapter, page and line. *Guide*, I, 36, p. 56 (ll. 19–27); *Mishne Torah*, *Aboda Zar'a*, 1:1; *Perush ha-Mishnayot*, *Sanhedrin*, X, 1, Foundation V, ed. R. Joseph Qafih (Jerusalem, 1964), vol. 4, p. 212. Cf. *Mishne Torah*, *Teshuva* 3:7.

⁴¹ McLachlan, *Sir Isaac Newton Theological Manuscripts*, p. 51.

⁴² Ibid., p. 57.

⁴³ Yah. Ms. 15, pp. 1–2.

Newton noticed that in the Hebrew Scripture, God's name is also applied to his angels and messengers.⁴⁴ This means that God may be semiotically associated with his creatures. There is, however, a huge distinction between semiotics and worship: although God's name may be connected with one of his creatures, no one may be worshiped except him: one ought to return "thanks to the Father alone . . . we ask of him immediately in the *name* [italics added] of Christ."⁴⁵ He incorporated this doctrine as an article of faith:

Art. 11. To give the name of God to angels or kings is not against the First Commandment. To give the worship of the God of the Jews to angels or kings is against it. The meaning of the commandment is, Thou shalt worship no other God but me.⁴⁶

Newton repudiated Jesus' divinity⁴⁷ and regarded Jesus as "a true man born of a woman,"⁴⁸ only "the Word or prophet of God."⁴⁹ "The time will come," he told Hopton Haynes (1672–1749), "when the doctrine of the Incarnation, as commonly received, shall be exploded as an absurdity equal to transubstantiation."⁵⁰ In this connection it would be helpful to consider Newton's explanation of the enigmatic "deity of the *ma'uzzim*" in Dan. 11:38–39. Jewish commentators associate these verses with the rise and spread of Christianity. R. Isaac Abarbanel (1437–1508), interprets *ma'uzzim* as "fortresses." These are the Christian Cathedrals that look as if they were fortresses; the "divinity" within these fortresses is the cult of Jesus.⁵¹ Newton identified *ma'uzzim* as mausoleums, harboring

⁴⁴ See Exod. 23:21 and *Guide* I, 27, p. 39 (ll. 16–28); I, 64; II, 6; and the explanation given by R. Manasseh ben Israel, *The Conciliator*, trans. by R.E.H. Lindo (London, 1842), vol. 1, pp. 70, 260–261; vol. 2, pp. 12–18. Cf. R. David Qamhi, on Josh. 3:11 and Is. 42:8.

⁴⁵ McLachlan, *Sir Isaac Newton Theological Manuscripts*, p. 57.

⁴⁶ Ibid.

⁴⁷ See Westfall, *Science and Religion in Seventeenth-Century England*, pp. 210–211; More, *Isaac Newton: A Biography*, pp. 640–644.

⁴⁸ McLachlan, *Sir Isaac Newton Theological Manuscripts*, p. 54, cf. *ibid.* pp. 55, 56.

⁴⁹ Ibid., p. 56.

⁵⁰ Cited in H. McLachlan, *The Religious Opinions of Milton, Locke, and Newton*, (New York, 1972), p. 127.

⁵¹ R. Isaac Abarbanel, *Ma'yane ha-Yeshu'a* (Venice, 5407/1647), XI, 8, 75d. A Latin translation of this work was made by Johannes Henricus Maius, *De haustu aquarum a fontibus salutis* (Frankfurt, 1710).

“the souls of the dead.” To make sure that no one would miss the point, he continued:

All which relates to the overspreading of the Greek Empire with Monks and Nuns, who placed holiness in abstinence from marriage; and to the invocation of saints and veneration of their reliques, and such like superstitions, which these men introduced in the fourth and fifth centuries.⁵²

Consistent with the preceding, Newton rejected the Christian interpretation that “the elder of days” (Dan. 7:9, 13) refers to Jesus.⁵³ “[W]hence are you certain that the Ancient of Days is Christ?”—he asked Locke (1632–1704). In full accord with Jewish exegesis that it refers to God,⁵⁴ Newton asked Locke: “Does Christ any where sit upon the throne?”⁵⁵ More grievously, Newton rejected belief in the Holy Trinity and submitted that the passages in the New Testament to this effect are interpolations made by the ecclesiastical authorities.⁵⁶ It is clear now why such a deeply religious man as Newton did not attend Church.⁵⁷

III

To discredit Newton’s religious beliefs it was alleged that by 1692 he had gone mad,⁵⁸ although his correspondence with Locke and Bentley at the time show him to be perfectly sane. “[I]t is a gross

⁵² See Isaac Newton, *Observations upon the Prophecies of Daniel and the Apocalypse of St. John* (London, 1733), p. 191.

⁵³ For a summary of the Christian interpretation of this passage and the ensuing Jewish criticism, see Abarbanel, *Ma’yane ha-Yeshu’a* VIII, 6, 44a-45c.

⁵⁴ On this point, see the incisive remark by the editor, R. Abraham Joseph Wertheimer, R. Isaiah di Trani the First, *Commentary on Prophets and Hagiographa* (Heb.) vol. 3 (Jerusalem, 1978), p. 216, n. 85.

⁵⁵ More, *Isaac Newton: A Biography*, p. 360; see *ibid.* p. 361. Predictably, More, *ibid.*, p. 626, tried to explain this away by claiming that at the “time, Newton was skeptical of Daniel’s prophecy as predicting the coming of Christ.” And yet at the bottom of the page, More quotes a passage of Newton stating that “to reject his [Daniel’s] prophecies is to reject the Christian religion.” See McLachlan, *Sir Isaac Newton Theological Manuscripts*, p. 18.

⁵⁶ See *Historical Account of Two Notable Corruptions of Scripture*. For a brief discussion of this work, see *Memoirs of the Life, Writings, and Discoveries of Sir Isaac Newton*, vol. 2, pp. 331–337; More, *Sir Isaac Newton: A Biography*, pp. 632–635.

⁵⁷ See Gale E. Christianson, *In the Presence of the Creator* (New York, 1984), pp. 257–258.

⁵⁸ See McLachlan, *The Religious Opinions of Milton, Locke and Newton*, pp. 162–163. His interest in alchemy is often mentioned as evidence of his alleged madness.

exaggeration to refer to this as ‘Newton madness’—remarked Professor Andrade (1887–1971).⁵⁹ The allegation was intended to conceal Newton’s “dreadful secret.” Lord John Maynard Keynes (1883–1946), who examined these papers, replied:

Let me not exaggerate through reaction against the other Newton myth which has been so sedulously created for the last two hundred years. There was extreme method in his madness. All his unpublished works on esoteric and theological matters are marked by careful learning, accurate method and extreme sobriety of statement. They are just as *sane* as the *Principia*, if their whole matter and purpose were not magical. They were nearly all composed during the same twenty-five years of his mathematical studies.⁶⁰

To conceal any connection between Newton and Judaism, pious scholars fabricated all kinds of silly theories: from his alleged “madness” to having fallen under the influence of Jacob Boehme (1575–1624).⁶¹ Inventive biographers (moved by ethical virtue, they are the best) piously masked Newton’s beliefs by relating them to this or that “heretical” view held by some vague *Christian* denomination. Louis Trenchard More (1870–1944), Newton’s best biographer to date, proposed that Newton was a Unitarian or perhaps an Arian;⁶² he could also be described as “essentially a Protestant”⁶³—although he negated the Holy Trinity;⁶⁴ or that his beliefs are those of “extreme

We forget that in his time “alchemy” was the equivalent of our “chemistry” and could have a much more scientific connotation than what the term suggests to the modern ear. For a sketchy description of Newton’s interest in alchemy, see Edward Neville da Costa Andrade, *Sir Isaac Newton* (Garden City, 1958), pp. 129–132. To the present, there is no serious study of Newton’s writings on alchemy. This is the place to point out that on the basis of the chemical and optical data at his disposal, Newton had as much a grasp of atomic theory as could have been possible at the time; see S.I. Vavilov, “Newton and the Atomic Theory,” in *The Royal Society Tercentenary Celebrations*, pp. 43–55.

⁵⁹ Edward Neville da Costa Andrade, “Newton,” in *The Royal Society Newton Tercentenary Celebrations* (Cambridge, 1947), p. 16.

⁶⁰ *Ibid.*, p. 30.

⁶¹ See McLachlan, *Theological Manuscripts*, pp. 20–21. None of Boehme’s works were in his library. More to the point, investigation in this area had shown this to be false. At best, his interest in Boehme may have been peripheral and related to his alchemists’ notions alone; see Stephen Hobhouse, *William Law: Selected Mystical Writings* (London, 1938), vol. 4, pp. 346–347.

⁶² See More, *Isaac Newton: A Biography*, pp. 630–631.

⁶³ *Ibid.*, p. 611.

⁶⁴ See *ibid.*, pp. 636–637, and Christianson, *In the Presence of the Creator*, pp. 250–255.

Protestants,” with the qualification, however, that they exhibit “tenderness towards the Arians.”⁶⁵ I think that More had in fact clinched our argument!

The only writer who had the fortitude to reveal Newton’s “dreadful secret” was Lord John Maynard Keynes—one of those luminous minds with which God graces humanity once in a long, long time. The Director of the Bank of England and father of the “Keynesian Economics,” he was the most influential English economist of his time. People familiar with the particulars of his life know that he was a man of extraordinary courage, unyielding to public opinion or to pressure, either personal or social. Keynes had read more of Newton’s papers than anyone else, and was eminently qualified to speak with authority on this matter. He was an avid collector of books, and in close contact with the renowned Jewish book dealer Gustav David, who advised him on Jewish material. Although he was not a specialist in Jewish philosophy, Keynes himself was a gifted philosopher and the author of a brilliant book on logic, *A Treatise on Probability* (London, 1921). A Philo-Semite, he was not only personally active in helping individual Jews (the economist Piero Sraffa comes to mind), but he put great efforts in trying to alleviate the lot of Jewish refugees in general. He was also a Zionist, the only non-Jewish member of the advisory committee under the chairmanship of Herbert Samuel that prepared the preliminary draft for a Jewish national home in Palestine.⁶⁶

Although he did not cite the specific documentation, Keynes’ testimony is unimpeachable. Precisely because Keynes was not a specialist in Jewish topics, he would not have risked his reputation by associating Newton with Maimonides, unless he had found solid evidence supporting this view:

Very early in life Newton abandoned orthodox belief in Trinity. . . . It may be that Newton fell under Socinian influences, but I think not. He was rather a *Judaic monotheist of the school of Maimonides* [italics added].

⁶⁵ More, *Isaac Newton: A Biography*, p. 637. See McLachlan, *Sir Isaac Newton Theological Manuscripts*, pp. 23–25. Newton had no sympathy for Arian doctrines. This is why he did not say a word on behalf of the Arian beliefs of his friend William Whiston; see Christianson, *In the Presence of the Creator*, p. 255.

⁶⁶ A fact not noted by his biographers Harrod, Skidelsky, and Hession. Keynes’ role acquires particular significance when we bear in mind that “the fiercest opponent of the Zionist” in the British cabinet was none other than the secretary of state for India Edwin Montagu, his close friend and benefactor; see Anand Chandavarkar, “Was Keynes Anti-Semitic?” in *Economic and Political Weekly*, May 6, 2000, p. 1622. I thank my friend Dr. Ranjit Chatterjee for bringing this article to my attention.

He arrived at this conclusion, not on so-to-speak rational or skeptical grounds, but entirely on the interpretation of ancient authority. He was persuaded that the revealed documents give no support to the Trinitarian doctrines which were due to late falsification. The revealed God was one God.⁶⁷

And indeed a Maimonidean he was.⁶⁸ His argument for the rejection of the Christian doctrine of *homooousion* (“co-substantiation” of God and Jesus) and thereby the Holy Trinity (leading him to believe that the New Testament had been corrupted intentionally by the scheming powers of the Church) comes from Maimonides. “Homooousion,” argued Newton, “is unintelligible. ‘Twas not understood in the Council of Nice, nor ever since. What cannot be understood is no object of belief.”⁶⁹ The argument comes from Maimonides, who postulated that what cannot be intellectually conceptualized cannot be the object of faith. Maimonides illustrates the impossibility of such a belief by pointing to the Christian doctrine of the Trinity.⁷⁰ Newton’s statement concerning miracles and the impossibility of changing the laws of nature is identical to that of Maimonides.⁷¹ It is plain, therefore, why Newton could not accept the articles of faith of the Church of England and refused the Holy Order. For the same reason, he could not be Master of Trinity College and had to obtain a special dispensation to hold his Fellowship and the Lucasian Chair. The few historians who grasped Newton’s ideas were determined to keep his “dreadful secret.” Quoting Keynes, again:

Newton’s proverbial fear of controversy, his suspicious attitude and neurotic behavior, his obsession with secrecy, and his eventual departure from Cambridge to an administrative position in London—all

⁶⁷ de Villamil, *Newton: The Man*, p. 30.

⁶⁸ See McLachlan, *Sir Isaac Newton Theological Manuscripts*, pp. 16–17, where Newton’s interest in Maimonides is acknowledged. McLachlan failed to appreciate the deep intellectual connection between them, on two grounds. First, he did not have first-hand knowledge of the subject and relied on the standard views of nineteenth century Jewish scholarship, which were trite and shallow at best. Second, he noticed that Newton wanted to keep philosophy and religion apart (cf. *ibid.*, p. 58), whereas Maimonides embraced both. However, at the time of Newton, “philosophy” meant also “science.” What Newton was saying is that one should not expect to find in Scripture “philosophical,” that is, scientific, descriptions; see José Faur, “Esoteric Knowledge and the Vulgar,” in *Trumah* 12 (2002), pp. 187–189.

⁶⁹ McLachlan, *The Religious Opinion of Milton, Locke and Newton*, p. 160.

⁷⁰ *Guide* I, 50.

⁷¹ More, *Isaac Newton: A Biography*, p. 623, and *Shemona Peraqim*, chapter 8 (= *Porta Mosais*, p. 240); cf. *Guide* II, 29; III, 24.

this, become perfectly clear in light of the dreadful secret he had to hide all his life. But this was a dreadful secret which Newton was at desperate pains to conceal all his life. It was the reason why he refused Holy Orders, and therefore had to obtain a special dispensation to hold his Fellowship and Lucasian Chair and could not be Master of Trinity. Even the Toleration Act of 1689 excepted anti-Trinitarians. Some rumours there were, but not at the dangerous dates when he was a young Fellow of Trinity. In the main the secret died with him. But it was revealed in many writings in his big box.⁷²

IV

The foregoing leads us into what in fact is the *only* riddle surrounding Newton's life: the outrage perpetrated against his books and manuscripts by England, a country known for her profound reverence for the book and the written word. The irony of the matter is that while England was sponsoring the removal of the written records of the most recondite cultures of the globe, to be deposited and safeguarded in her libraries and museums, and at the same time that English travelers and savants were encouraged to collect books and manuscripts from all over the world for the motherland, England did not blink an eye while the books and manuscripts of her greatest genius were trashed away. The existence of Newton's library was well known.⁷³ Yet no efforts were made to save or catalogue it. It almost disappeared completely after his death. The books "were sold in bundles (one bundle being, in fact, composed of two hundred volumes!), as if of no special interest or value, and were sold, in consequence, at rubbish prices." Many of his books were "sent to the pulp mill."⁷⁴ His manuscripts were auctioned by order of Viscount Lymington, in July, 1936. They were divided into 330 lots and were sold by auction to thirty-three buyers, mostly dealers. Thus, under the passive (but always vigilant) eye of England, the thoughts of Newton were scattered throughout the four corners of the globe. "The papers were auctioned piecemeal," bewailed a scholar. "It must be regretted that any of them were allowed to leave England."⁷⁵ Part of the collection was acquired by Lord Keynes and is now at Kings College, England. Another portion was purchased

⁷² de Villamil, *Newton: The Man*, pp. 30–31.

⁷³ See *ibid.*, p. 4.

⁷⁴ *Ibid.*, p. 6.

⁷⁵ McLachlan, *The Religious Opinions of Milton, Locke, and Newton*, p. 172.

by Professor Abraham Shalom Yahuda (1877–1951) and is now at the National Library in Jerusalem. The rest was scattered all over.⁷⁶ England's silence at this outrage is eloquent indeed. Why?

I submit that the failure to preserve Newton's library and manuscripts was the effect of religious bias. Newton himself was aware of the religious prejudices of his contemporaries and opposed the publication of his manuscripts.⁷⁷ Efforts were made to prevent the general public from examining his writings. The volume of those writings was huge. There are over 1,300,000 words on religious matters in the Portsmouth collection alone.⁷⁸ None of the material had been published or indexed. The few who examined the papers were shocked. To protect Newton's "good name," the importance of the manuscripts was denied. "The Historical and Theological MSS," ascertained the scholars in charge of cataloguing the Portsmouth Collection, "cannot be considered of any great value."⁷⁹

Those who would say that England has no sense of fair play should not judge harshly. England, it seems, is no less frail than the rest of us, plain folk, who find it easier to preach than to teach. Being religiously superior is a serious responsibility, not always easy to discharge. We all like to think of ourselves as open minded, but there is a limit. Those familiar with the recondite paths crisscrossing the English ethos know that English etiquette freely excuses acknowledging favors received, but is unforgiving of naughty behavior. It is inexcusable and boorish not to shell tit-for-tat. Granted, golden boys have privileges, and England's favorite son was entitled to special treatment. True, to a point. But how in the name of good sense and good manners can one explain that a genius, of Newton's rank no less, would prefer. . . . That is inexcusable! As noted by a modern student of Newton, no less than a professor of *History* at a distinguished university:

His [Newton's] future relationship with God was to be an intellectual rather than an emotional one, in which Christ, the loving and forgiving Redeemer, played a secondary role. It was . . . the omnipotent Creator, harsh Taskmaster, and imperious Judge of the Old Testament, who commanded Newton's lifelong attention and obedience.⁸⁰

⁷⁶ On the major collections of Newton MSS, see I. Bernard Cohen, "Newton, Isaac," in *ACLS Dictionary of Scientific Biography* (New York, 1974), p. 94.

⁷⁷ See McLachlan, *Sir Isaac Newton Theological Manuscripts*, p. 2.

⁷⁸ See Andrade, "Newton," p. 21.

⁷⁹ *A Catalogue of the Portsmouth Collection*, p. XIX.

⁸⁰ Christianson, *In the Presence of the Creator*, p. 248. For other derogatory remarks, see *ibid.*, pp. 252, 255, etc., etc. Cf. *Reflections on Men and Ideas*, pp. 26, 179.

What pearls of wisdom! One can only wonder why such a staggering thought never crossed Newton's wits! The indignation of a superior mind is not surprising. This august scholar could not ignore the fact that Newton had exchanged a religion of "tolerance" for "the jealous Creator of the Old Testament"! Let us hear the full statement. Disposing of the God of Israel simply as Y . . . h (a theological euphemism that nobody is expected to take seriously, and my Jewish upbringing disallows me from spelling) he offered the kind of intellectual probity that only an accomplished historian can pronounce:

Y . . . h, as the Hebrews so painfully learned, was anything but a God of patient tolerance. Above all else, He had commanded the children of Israel, "Thou shalt have no other gods before me." Nor, despite the moderating influence of a loving Christ's compassionate entry into history, did the record show that the jealous Creator of the Old Testament had experienced a profound change of heart.⁸¹

There is not a grain of cynicism, let alone hypocrisy. These words capture perfectly the mood and intellectual honesty the academic world cherishes so much! Any one minimally acquainted with history, particularly with the treatment of *conversos*, Native Americans, et al., will surely agree with the above "patient tolerance" and "loving Christ's compassionate entry into *history*" [*italic added*] exhibited by those untouched by the "jealous Creator of the Old Testament."⁸²

V

The Hebrew Tetragrammaton, what the sages of Israel refer to as *shem ha-meforash*, stands for God *ad intra* as He is to Himself.⁸³ Since Judaism postulates Creation *ex nihilo*, any and all ontological relationships between God and whichever of his creations, must be negated, totally and categorically. Thus, essentially and fundamentally, God's

⁸¹ Christianson, *In the Presence of the Creator*, p. 252.

⁸² For some insights into the savagery and genocide performed by these good hearted folks, from the perspective of the victims rather than the aggressor, see José Faur, "Jews, *Conversos*, and Native Americans: The Iberian Experience," in *Annual of Rabbinic Judaism* 3 (2000), pp. 95–121.

⁸³ B. Sot. 38a. For some clarifications on this designation, see Louis Ginzberg's note in Israel Efros, *Philosophical Terms in the Moreh Nebukhim* (New York, 1924), pp. 143–144. Since already in biblical times the Tetragrammaton was regarded as

existence and the existence of every thing else are absolutely dissimilar.⁸⁴ God is “a necessary Being.”⁸⁵ This means—as R. Manasseh ben Israel (1604–1657) explained—“His inherent, absolute and unconditional existence.”⁸⁶ God’s necessary Being stands in syntagmatic opposition to everything else, which is only “a possible being.”⁸⁷ It is worthy of note that according to Maimonides, the literal meaning of the Tetragrammaton is, He who “necessarily exists.”⁸⁸ Moses’ first mission was to transmit this fundamental doctrine to the elders of

too holy to pronounce, after the first Exile it was replaced by *Adonai*. This can be gathered by comparing parallel passages in *Chronicles* and early Scripture. During the Second Temple period it was uttered only by the priests when pronouncing the priestly blessing and by the high priest during Yom Kippur worship. Out of deference, it was no longer pronounced after the destruction of the Temple; instead, *Adonai* was said.

⁸⁴ See *Guide*, I, 51, 53, 55, 57, 60, etc. Cf. José Faur, “The Character of Apophatic Knowledge in Maimonides’ *Guide*,” in Dan Cohn-Sherbok, ed., *Theodicy* (Lewiston, 1997), pp. 67–74.

⁸⁵ *Guide*, I, 57, p. 90 (ll.6-7); cf. *ibid.*, 58, p. 92 (l.6); 63, p. 106 (ll. 20-24). For a definition of “God” as “a necessary Being,” see *Mishne Torah*, *Yesode ha-Torah*, 1:1-4; *Perush ha-Mishnayot*, *Sanhedrin*, X, 1, Foundation I, vol. 4, pp. 210–211; and José Faur, *Homo Mysticus: A Guide to Maimonides’ Guide for the Perplexed* (Syracuse, 1998), p. 101. In Jewish tradition (in opposition to Aristotle, see below and n. 87) it has a double connotation: he is absolutely self-sufficient, depending on himself alone and on nothing else, while everything else depends on him alone. This doctrine is implicit in Se’adya’s rendition of *Shaddai* (Gen. 17:1; Exod. 6:3) as *at-ta’iq al-kafi*, “the Absolute, the Self-sufficient;” cf. *Guide* I, 63, p. 107 (ll.6-9); *Perush ha-Mishnayot*, vol. 4, pp. 211–212; on the term *at-ta’iq*, see *ibid.* p. 211. Elie Benamozegh, *Em la-Miqra* (Leighorn, 1862), vol. 3, 18b-19b, proposed that this concept is explicit in Aqilas’s translation cited in *Bereshit Rabba* [XLVI, 1, Teodor-Albeck, ed. (Jerusalem, 1965), vol. 1, p. 461]. In support of this thesis, he cited Natan b. R. Yehiel, *Arukh*, s.v. *iqyum*, where he reports that this term was employed by Byzantine Jews to translate *Shaddai*. Benjamin Musafia, ad loc., interpreted that Greek term to mean “self-sufficient.” On philological grounds, the editor, Alexander Kohut, *Arukh ha-Shalem* (New York, 1878), vol. 1, p. 255, rejected Musafia’s interpretation. The value of Musafia’s contribution rests, however, on his keen knowledge of the *koine* or regional, colloquial *spoken* Greek, rather than on classical texts and dictionaries. This specialized knowledge is particularly valuable in our case, since the *Arukh* emphasized that it was *used* in the *oral* translation of the Torah. To sum up, the idea of God as a “necessary Being” is a primary Jewish concept, already known to Greek speaking Jews. From them it passed somehow to the Arabic of Se’adya, finally acquiring doctrinal formulation in Maimonides’ writings. On the Aristotelian notion of “necessary existence,” see Faur, *Homo Mysticus*, pp. 101; 223 n. 59.

⁸⁶ *The Conciliator*, vol. 1, p. 104.

⁸⁷ See *Guide*, I, 57, p. 90 (ll.4-9); II, Introduction, Axioms 19, 20; chap. 1, p. 172 (ll.14-25); and R. Joseph b. Jehuda, *Drei Abhandlungen*, ed. Moritz Lowy (Berlin, 1879). Cf. Harry Wolfson, *The Philosophy of Spinoza*, 2 vols. (Cambridge, MA, 1934), vol. 1, p. 67; and *Homo Mysticus*, pp. 98–102.

⁸⁸ *Guide*, I, 61, p. 101 (l.10). Expressing in a single word the three tenses of the verb “to be” in Hebrew; thus, signifying, continuous, uninterrupted beingness, from ever onto ever.

Israel, under the title “I am that what I am” (Exod. 3:14). The task of the mission was elucidated by R. Manasseh ben Israel:

Shew them [to the elders of Israel] . . . that my Being is within myself, independent of every other, different from all other Beings, who *are* so alone by virtue [of] my distributing it [existence] to them, and might not have *been* nor could actually *be* such without it.⁸⁹

In Scripture, God is occasionally called *Adon* “Lord,” “Master,” in the specific sense of possessing “Dominion”—as in “Lord (*Adon*) of the whole earth” (Josh. 3:11, 13; Zech. 4:14, 6:5; Ps. 97:5). From this substantive derives *Adonai*, regularly used in Hebrew as an appellative to “God.” In Scripture, God’s dominion is related to the root *QaNaH*, which means not only “ownership,” “possession,” but also “forging,” “making,” as when Eve said on the birth of Cain, “*qaniti* a person with God” (Gen. 4:2), i.e., “I have forged a person together with God.”⁹⁰ Bearing this sense in mind, the oath pronounced by Abraham to Melchizedek, “I have raised my hand [in oath] to the Supreme God, *qone* heavens and earth” (Gen. 14:19, 22), acquires precision and depth. God is acknowledged *qone* in the double connotation of Creator/Lord of the universe.⁹¹ It means that God, the Creator, has Supreme Dominion over all by Right of Creation. This doctrine is ripe with implications, both theological and political.

The association Dominion/Creation is explicit in Maimonides. When discussing the title *Adonai* used by the Hebrews for reading the Tetragrammaton, Maimonides explained that it derives from the root *Adon*. The final diphthong *ai* (rather than the suffix *i* as in *Adoni*) indicates the grammatical absolute construct noun. Accordingly, *Adonai* stands for total “Dominion,” without condition or encumbrance.⁹²

⁸⁹ *The Conciliator*, vol. 1, p. 103.

⁹⁰ See Umberto Cassuto, *From Adam to Noah* (Jerusalem, 1953), pp. 133–135 (Heb.) and Deut. 32:5. Cf. Prov. 8:22, and Se’adya Ga’on, *Mishle*, ed. and trans. Joseph Qafih (Jerusalem, 1976), p. 77. The enigmatic aphorism exhorting that one should “*qene* a friend” (M. Abot 1:5) means “to forge” a friend through amity and comradeship, rather than hope to find one “ready made.” Incidentally, the above mentioned verse means that Eve, the first mother of humanity, recognized that parents have only *limited* dominion over their children, subservient to God’s, see B. Yeb. 5b; *Mishne Torah*, *Mamrim* 6:12; unlike pagan society where parents’ dominion over children is absolute, cf. below, n. 131.

⁹¹ See *Guide* II, 30, p. 251 (ll.22–25).

⁹² *Guide*, I, 61, p. 100 (ll.20–29). Cf. Judah ha-Levi, *Kuzari*, IV, 3, Arabic original, eds. David H. Baneth and H. Ben-Shammai (Jerusalem, 1977), p. 153 (l.5): *ya mawlai*, “O my Lord,” in the sense of “supreme sovereign” or “governor,” “master;” the Hebrew translation, p. 159 (ll.1–2) misses the point. This is the root used by Maimonides in connection to *qana*; see the quotation below, n. 94.

More cogent for our present purpose is the fact that “Dominion” is a function of *qana* in a double sense: Creator and *thus* Lord (*Dominus*) with absolute Dominion (Gen. 14:19, 22).⁹³ Here is what Maimonides says:

Concerning Him it was said to have possession (*qana*) (Gen. 14:19, 22) over them [Heaven and earth], because He, the most High, has dominion over them [His creatures] as a Master has dominion over his slaves. This is why He is called “Lord (*Adon*) of all the earth” and “the Lord” (*ha-Adon*), since one cannot be a Master unless having possession (*qinyan*).⁹⁴

Intimately bound up with the idea of God’s absolute Dominion is that “Creation” must be essentially and fundamentally *ex nihilo*. This is why, explained Maimonides, Scripture stipulates that God “*bara* (“created”) the whole world, because according to us, it was created out of nothing.”⁹⁵ To ascertain this overwhelming principle, Jews proclaim in the *Amida* thrice daily, that God is *Qone ha-kol*, “Creator/ Having Dominion over Everything.” In this respect, God’s Dominion is positively different than that of earthly monarchs. The latter’s claim for Dominion is based on violence and the might of the sword. God’s Dominion alone is categorical and absolute, since is based on the right of Creation. Concerning this focal principle, Abendana wrote: “Whereas God Almighty is the Lord and Governor of the Universe, as having by Right of Creation the Supreme Dominion over all Creatures.”⁹⁶ It would be helpful to consider at this point that the Septuagint renders *Adonai* by the Greek legal term *Kyrios*. This, as Professor Bickerman observed, is

[a] legal term meaning the legitimate master of someone or something, a word which as a substantive was not used in Greek religious language. It is simply a literal translation of the Hebrew appellative *Adonai* (the Lord), which became in the meantime the standard pronunciation of the awe-inspiring Tetragrammaton.⁹⁷

The doctrine represented by the Tetragrammaton standing for God as a necessary Being and the doctrine of God as having absolute

⁹³ See *Guide* II, 30, p. 251 (ll.22-25).

⁹⁴ *Guide* II, 30, p. 252 (ll.6-8). Judah ha-Levi, mentioned above, n. 92, refers to the same verse.

⁹⁵ *Guide* II, 30, p. 252 (ll.4-5).

⁹⁶ *Discourses*, p. 126.

⁹⁷ Elias Bickerman, *From Ezra to the Last of the Maccabees* (New York, 1962), p. 66.

Dominion, represented by *Adonai*, are interrelated. The point of the Hebrew Scripture is not merely that God “exists” (as a metaphysical postulate) but that he has absolute Dominion over all Creation. Put differently, only a necessary Being can have absolute Dominion. (Polytheism is the intellectual alternative to the above).⁹⁸ Thus, Maimonides opened the *Mishne Torah* with the formulation of these two doctrines (*Yesode ha-Torah* 1:1-5). The first paragraph postulates that God alone exists from eternity and everything depends on him. This postulate constitutes, “The Foundation of Foundations and the Pillar of the Sciences” (1:1). It means that everything depends on him (1:2), but he does not depend on anything else (1:3). Since everything else exists conditionally, Scripture established that he alone exists *truly*: nothing else could partake of *his* level of existence (1:4). These paragraphs are followed by a paragraph stipulating God’s absolute Dominion. Paraphrasing the biblical formula (Josh. 3:11, 13; Zech. 4:14, 6:5; Ps. 97:5) quoted above, Maimonides wrote: “That [necessary] Being is the God of the Universe, Ruler of the whole World” (1:5).⁹⁹

Before proceeding I must dispose of a common misconception. Popular wisdom notwithstanding, for Maimonides the first precept (*misva*) of Judaism is not belief in the “existence” of God. As argued by R. Hasdai Crescas (d. ca. 1412), conceptually a *mišva* (precept) presupposes a *mešavve* or “authority” issuing the *mišva*.¹⁰⁰ In our case, this would lead to the absurdity which, subsequent to believing in the existence of the Supreme Authority God (issuing the *mišva*), we are prescribed to believe that he *exists*?! Rather, as per the Arabic original of Maimonides’ *Sefer ha-Miṣvot*, the precept consists in “acknowledging [God’s] *ar-rabbubiyya*.”¹⁰¹ Like many such terms, this, too, entered the

⁹⁸ Cf. Faur, *Homo Mysticus*, pp. 139–142 and p. 235, n. 89.

⁹⁹ Maimonides chose the expression “Ruler of the whole Earth” out of stylistic considerations; see the anonymous *Perush* ad loc. printed in the standard editions. It refers to the “*inhabitants* of the earth,” and it parallels the liturgical formula “King of the Universe.”

¹⁰⁰ This point was raised by Hasdai Crescas, *Or ha-Shem* (Offset Edition, Tel-Aviv, 1963), 3a. R. Crescas did not have the foggiest idea what Maimonides was talking about. In several of my writings I point out that with the triumph of the anti-Maimonidean ideology, Jewish thinkers were closer to Christian theologians than to the rabbis or Scripture.

¹⁰¹ Maimonides, Arabic text of *Sefer ha-Miṣvot*, Joseph Qafih, ed. (Jerusalem, 1971), positive precept # 1, p. 58. This term appears once at the beginning of the paragraph, “acknowledging [God’s] *ar-rabbubiyya*,” and once at the end, concluding that

Arabic religious lexicon via Judeo-Aramaic; in our case the Aramaic *rab* translating the Hebrew *Adon*. Accordingly, the first *mišva* consists in “acknowledging God’s Dominion.”¹⁰² For that reason, immediately after formulating the doctrine that God is ruler of the whole world (1:5), Maimonides continues: “And acknowledgement of this [Hebrew demonstrative pronoun, singular: *ze*] matter is a positive precept” (1:6). It may be of some interest to note that in the course of explaining Gen. 28:20, Maimonides’ son, R. Abraham (1186–1237) reports in the name of his father: “Far be it from the faithful—even if he would be the lowliest of the children of Jacob—to accept God’s Dominion (*rabbubiyyatihi*) only conditionally.”¹⁰³

Concerning the biblical basis for the first precept, Maimonides cites “I am God *elohekha*” from the First Commandment (Exod. 20:2). This point deserves to be explained. Rather than simply assuming that *elohekha* is a tautology, as is often done, and translating it “your God” (accordingly, the first message transmitted by God to Israel is a redundancy: “I am God your God”), in Judeo-Arabic tradition this term is translated *rabbak* “your Master,” i.e., someone with *ar-rabbubiyya* over you.¹⁰⁴ Bearing this in mind, Maimonides’ sense of is clear: the First Commandment does not come to establish “I am God,” but, rather, “I am God *elohekha*,”

indeed the first commandment consists in “acknowledging [God’s] *ar-rabbubiyya*,” see textual variants, n. 6. (Qafih’s translation is faulty). It appears also in *ibid.*, Principle IX, p. 32, see below, n. 107. For a further analysis, see José Faur, *Studies in the Mishne Torah* (Jerusalem, 1978) (Heb.), pp. 159–160; and *idem*, “Intuitive Knowledge of God in Medieval Jewish Theology,” in *Jewish Quarterly Review* 67 (1976–1977), pp. 90–110. Cf. below, n. 104.

¹⁰² My friend, the late Professor E.Y. Kutscher, *Words and Their History* (Jerusalem, 1961), p. 31, dismissed the popular association of the Latin *Dominus* with the Hebrew *Adon*. He is only partially correct. For the Romans, *dominus* was semantically and linguistically linked to *domus*, “house, domicile;” see Émile Benveniste, *Indo-European Language and Society* (Coral Gables, 1969), p. 245. The *semantic* field of *Dominus*, particularly as it appears in Christian texts and ecclesiastical Latin (but not exclusively), is not Roman but the Jewish *Ribbon/Adon*. In the form *rab* it stands in Talmudic literature for the title “scholar, master,” having *authority* to transmit and render legal decisions (hence the modern “rabbi”). It may be of some interest to Latinists to note that under the influence of the Jewish *rab*, *dominus* was used in Medieval Latin in the sense of “legal expert;” see the texts cited in Herman Kantorowicz and Beryl Smalley, “An English Theologian’s View of Roman Law,” in *Medieval and Renaissance Studies* (1941), pp. 241, 247.

¹⁰³ *Perush R. Abraham*, R.S. Sasoon, ed. (London, 1958), p. 88 (Heb.).

¹⁰⁴ It is important to recall that *eloah* with or without a suffix, e.g., *elohekha*, *elohenu*, is not a mere synonym but one out of the seven appellatives of the God of Israel; see *Mishne Torah*, *Yesode ha-Torah* 6:1-3, i.e., with a specific and singular

that is, “*rabbak*, “with Dominion over you.”¹⁰⁵ God’s Dominion is absolute and indivisible.¹⁰⁶ Accordingly, the Second Commandment does not come to prohibit polytheism but, as per Se’adya’s translation, to attribute God’s *rabbubiyya* to someone else.¹⁰⁷ The apostasy of the golden calf was not because these people believed in another God; they apostatize, rather, because by declaring “This is *elohekha*, O Israel!” (Exod. 32:4, 8)—Se’adya’s translation: “this is *rabbak* O Israel!”—they attributed dominion to something other than God.¹⁰⁸ It would be opportune to point out here that the *Shema*‘ is not merely an affirmation that there is only one God, but, rather, that “God *elohenu* is One God” (Deut. 6:4). In Se’adya’s translation: “Hear O Israel, that God *rabbana*—having Dominion over us—is one God,” i.e., no one else can claim Dominion but him.¹⁰⁹

connotation. Invariably, when it relates to the God of Israel, Se’adya translates it *rabbak*, see, for example, his translation of Exod. 15:26; 20:2, 6, 9, 11, etc. Lev. 2:13; 18:21; 19:12; 21:8, etc. However, when the verse refers to a pagan deity, he translates it *ma’budak*, “your [object of] worship;” see Gen. 31:32.

¹⁰⁵ The same idea is found in ibn Ezra, *Yēsod Mora*, Joseph Cohen and Uriel Simon, eds. (Ramat-Gan, 2002), VII, 10, p. 142 (ll.106-107), who wrote that the first precept is for the individual to accept God as *elohav*, cf. editors’ note, ad loc. The source of this definition is Rabbinic. In Y. Ber. 1:10, 3c, the expression “I am God, *elohekha*” in the First commandment is equated with *elohenu* at the beginning of the *Shema*‘, the purpose of which, according to the M. Ber. 2:2, is “acknowledging the Kingdom,” i.e., Dominion, “of Heaven.” This passage appears in *Hilkhot ha-Yerushalmi le-ha-Rambam*, Saul Lieberman, ed. (New York, 1947), p. 21. Lieberman was unaware of the precise connotation of these terms; see his note ad loc., and therefore he could not come to grips with the meaning of the above or the reason why Maimonides needed to include it in his compendium of the *Yerushalmi*.

¹⁰⁶ And not shared with any creature, cf. David Qamhi, on Is. 42:8.

¹⁰⁷ See Se’adya’s translation of Exod. 32:4, 8. Cf. *Sefer ha-Misvot*, Arabic text, p. 181; similarly, *ibid.*, Principle IX, p. 32; Maimonides illustrates an “intellectual sun” as if one were to attribute *rabbubiyya* to someone besides God (Qafih’s translation in both places is faulty). Likewise, in his son’s commentary, *Perush R. Abraham*, p. 315, the Second Commandment comes to prohibit attributing God’s *rabbubiyya* to someone else. The source of this interpretation is Rabbinic. According to M. San. 7:4, “acknowledging” (*ha-meqabbel*) an idol or a deity as *eloah* constitutes “*aboda zara*,” even if no ritual was performed; see B. San. 61a, *Mishne Torah*, *Aboda Zara* 3:4; and José Faur, “Performative and Descriptive Utterances in Jewish Law,” in Arye Edrei, ed., *Studies in Jewish Law in Honor of Professor Aaron Kirschenbaum (Dine Israel 20–21, 5760–5761)*, pp. 101–121, especially pp. 108–110 (Heb.).

¹⁰⁸ According to Judah ha-Levi, *Kuzari*, I, 97, pp. 33–36, Arabic original, pp. 29–32, the children of Israel neither worshipped the golden calf nor “negated [God’s total] *rabbubiyya*,” Arabic original p. 30 (l.18); cf. *ibid.*, p. 29 (l.18), and IV, 15, p. 168 (l.9); the Hebrew, p. 34 (l.24) is faulty, but *ibid.*, p. 33 (l.24), and IV, 15, p. 174 (l.5) correctly translated: *ribbonuto*.

¹⁰⁹ This is consistent with the rabbis’ interpretation of the *Shema*‘ mentioned above, n. 105.

A semantically cognate term, but not identical to *Adon* and *Ribbon*, is the Rabbinic *manhig*. It has several meanings. As a verb, its primary sense is “to conduce,” “to move or keep in motion,” a beast (as in M. B.M. 1:2, etc.). It also means to “manage,” “to guide,” as with the pillar of fire guiding and protecting Israel in the desert (T. Sot. 11:1), and a parent guiding and protecting his child (Y. Qid. I, 7, 61a, etc.). As a substantive, *manhig* stands for “governor,” “political leader.”¹¹⁰ Occasionally, the rabbis apply this term to God, in quality of *manhig* of the world.¹¹¹ In these two senses Maimonides applies the title *Manhig* to God. First, God conduces and gives motion to the cosmic sphere, *not* as the mechanical prime mover, but as a supreme political leader in charge of all his subjects (Arabic: *mudabbir*; Hebrew: *manhig*).¹¹² To dispel any suggestion of some point of contiguity (either ontological or spatial) between God, *Manhig*, and the Universe, Maimonides compares God’s ruling of Creation to a skipper, but not exactly:

The relation of God to the Universe is the relation of a skipper to his boat. This, however, is not an exact comparison or true simile. Rather, we only intended to indicate that God guides (Arabic: *mudabbir*; Tibbon: *manhig*) whatever exists. It intends to imply that He awards to it [His creations] contiguity [both spatial and time] and preserves their proper order.¹¹³

¹¹⁰ *Debarim Rabba* (Lieberman), *Shofetim* IX, pp. 88–89; *Bemidbar Rabba* XX, 4 (Vilna edition), 83d; *ibid.* XXI, 2, 88d; *Debarim Rabba* V, 8 (Vilna edition), 110c.

¹¹¹ See *Bereshit Rabba* XXXIX, 1, vol. 1, p. 365; *Debarim Rabba* (Vilna edition) IX, 9, 117c. Thus, the common Judeo-Arabic expression *Alla yudabber*, “God shall lead,” indicating that God, as Supreme leader, will take charge.

¹¹² Cf. *Teshuba* 3:2. Consistently, Samuel ibn Tibbon identifies the Arabic *mudabbir*, “political leader,” in the *Guide* with the Hebrew *manhig*; see *Guide* I, 58, p. 93 (l.22), etc. As with many other technical terms, the Arabic *mudabbir* come from the Judeo-Aramaic, in our case *debar*, “to guide;” see, for example *Targum* on Gen. 2:15, 11:11, 20:14, 31:14, etc. This applies even when an angel, Exod. 14:19, 21, or God, Deut. 20:4, is guiding. As a substantive, *dabbar* means “political leader,” see B. San. 8a. (In both cases, as a verb or substantive, the root DBR is connected with the Hebrew DBR, “speech,” “word.” This is the place to point out that the Hebrew *manhig* indicates, not only someone who guides directly without an intermediate agent or cause, but also someone assuming responsibility and supervising what is taking place; see, for example, *Debarim Rabba* IX, 9 (Vilna edition), 117c. God exercises *his* guidance and providence variously by means of angels and other agents while still remaining absolute Lord and *Adon*; see *Guide*, II, 6. Indeed, “you will not find at all an action executed by God except through an angel,” *ibid.*, p. 182 (l.14); see *The Conciliator*, vol. 1, pp. 260–261. Cf. *Guide* II, 10, p. 186 (l.29) ff., and below, n. 114.

¹¹³ *Guide* I, 58, p. 93 (ll.20–23).

This fundamental doctrine was incorporated in the *Mishne Torah* (*Yêsode ha-Torah* 1:5): “The God of the Universe and *Adon* of the whole earth is *Manhig* the (cosmic) sphere with a boundless and uninterrupted might.”¹¹⁴ Patriarch Abraham, in Hebrew intellectual tradition, is not the first monotheist, but the first to have discovered that the One and Only God actually is the “*Manhig* moving the (cosmic) sphere.”¹¹⁵ The source is Rabbinic. The rabbis report that given the lack of homogeneity and uniformity of astral bodies,¹¹⁶ Abraham concluded: “Unless [the celestial bodies] have a *manhig* they could not [move] in this fashion! [Therefore] it would be inappropriate to worship them, rather [we should worship] their *Manhig*!”¹¹⁷ God/*Manhig* is a key, elementary concept. In the intellectual apparatus of Israel there is no cogent difference between an atheist postulating that “there is no God” and another postulating “that the world has no *Manhig*,” both fall into the first class of *minim* (heretics). Noticeably, to the second class of *minim* belong not those ascertaining the existence of more than one deity but those positing “that there is a *Manhig*, but they are two or more.”¹¹⁸

The modern emphasis on biblical “monotheism” misses the point.¹¹⁹ Scripture does not come to teach a metaphysical axiom

¹¹⁴ Cf. M. B.M. 1:2, B. B.M. 8b-9a, and *Mishne Torah*, *Gezela* 17:5: ownership of a beast goes to the *manhig*, i.e., the person controlling the beast’s movements—not to the person mounting or holding it. This is consistent with the first blessing of the evening *Shema*’ proclaiming that God *ma’arib ‘arabim* by his word, i.e., as a *Manhig*. For the precise connotations of *manhig*, see *Mishne Torah*, *Shabbat* 20:6, *Kil’ayim* 9:7; and Faur, “Performative and Descriptive Utterances in Jewish Law,” pp. 112–114. Cf. Below, n. 144.

¹¹⁵ *Mishne Torah*, *Aboda Zara* 1:3 (l.38, and l.34); *Guide* II, 19, pp. 216 (ll.23)–217 (l.5); II, 13, p. 198 (ll.28–30); cf. Se’adya and ibn ‘Ezra on Deut. 33:26.

¹¹⁶ See below, n. 144.

¹¹⁷ *Medrash Haggadol*, *Genesis*, M. Margulies, ed. (Jerusalem, 1967), pp. 210–211. In an parallel text, *ibid.*, p. 205 (l. 5): *Adon*. As indicated by the editor, a similar passage is found in the Geniza fragments published by Jacob Mann, *The Bible as Read and Preached in the Old Synagogue*, vol. 1 (New York, 1971), Hebrew Section, pp. 59–60. Obviously this bears on the whole concept of divine providence; see *Guide* III, 17, p. 335 (ll.8–11); 23, especially pp. 360 (l.10)–361 (l.6).

¹¹⁸ *Mishne Torah*, *Teshuva* 3:7. Cf. *Guide* I, 75, p. 94 (ll.23–29); III, 17, p. 335 (ll.8–11).

¹¹⁹ Chiefly on *a priori* grounds and intellectual bias, “Biblical monotheism” is analyzed according to Greek, more specifically Hellenistic, ideology, with the foreseeable results. If one were to add to it the notion of “ethical”—a term antithetical to *misva* and *halakha*—(neither the rabbis lexicon nor Scripture have a semantic equivalent to “ethics”), and then go on to examine “Biblical Ethical Monotheism,” the conclusions will be confusing, at best. It is as if one were to assume that “apples” in Judaism are “bananas” and then go on to demonstrate that the biblical concept of this fruit is flawed. See, however, the valiant attempt of V. Nikiprowetzky, in “Ethical Monotheism,” in *Daedalus* 104 (1975), pp. 69–90.

but, rather, that the One and Only necessary Existent, Creator of Heaven and earth and everything else has absolute *Dominion* over *his* Creation.¹²⁰ It means, that in the quality of absolute Master, he issues *misvot* “precepts”—a series of laws regulating all the aspects of the spiritual and political life of his subjects.¹²¹ To stress this fundamental doctrine, Jewish law requires that a blessing should not only be addressed to “our God,” but also should spell out: “King of the Universe.”¹²² The holidays of *Rosh ha-Shana* and *Yom Kippur* are to remind us that God in quality of King, not only has the right to judge “all the inhabitants of the world”¹²³ but also to remiss their sins.¹²⁴ For the purposes of the present discussion, it may not be superfluous to point out that a most common designation for “God” in Rabbinic literature and Jewish liturgy is *Ribbono shel ‘Olam*, “Master” or “Ruler of the Universe.” As mentioned earlier, *Ribbon* is the Aramaic translation of *Adon*. Correctly understood, the Hebrew hymn *Adon ‘Olam*, sung throughout Jewish synagogues, is a most eloquent testimony of Israel’s faith in God’s Dominion, both universal and personal.¹²⁵ Finally, the eschatological vision of Israel for the universal kingdom of God expresses Israel’s hope that eventually the whole of humanity will recognize God as their Supreme King (rather than the king as Supreme God).

Monolatry, the worship of God according to his *misvot*, is the necessary corollary to God’s Dominion. The rabbis understood this well. Pointedly, they taught that the purpose of the first portion of the *Shema*—the most important of all Jewish prayers—is not to *declare* his *existence*—but “to acknowledge the authority of the Kingdom of Heaven.” Consequently, the purpose of the second portion of the *Shema* is “to acknowledge the authority of the *misvot*” (M. Ber. 2:2). The “holiness” that the Jew seeks is not something akin to the

¹²⁰ Cf. Judah ha-Levi, *Kuzari*, IV, 15, p. 174; Arabic original, David H. Baneth and H. Ben-Shammai, eds. (Jerusalem, 1977), p. 168 (l.9).

¹²¹ Including the Seven Noahide Precepts for non-Jews; see José Faur, “Sir Isaac Newton,” section III, in Görg K. Hasselhoff and Otfried Fraisse, eds., *Moses Maimonides (1138–1204)* (Würzburg, 2004).

¹²² B. Ber. 40b; Y. Ber. 9:1, 11d; *Mishne Torah*, *Berakhot* 1:5.

¹²³ See M. R.H. 1:2; B. R.H. 16b; *Mishne Torah*, *Teshuva* 3:1, 4.

¹²⁴ See M. Yoma 8:9 and George Foote Moore, *Judaism*, (Cambridge, MA, 1966), vol. 3, pp. 150–151.

¹²⁵ There is a beautiful English translation of this hymn with notes in Joseph H. Hertz, *Daily Prayer Book* (New York, 1963), pp. 556–557. Other hymns were modeled after it, the most popular of which is *Ya Ribbon Alam* by Israel Najara.

cosmic sacrality of pagan religions,¹²⁶ but, specifically, *qedushat ha-miṣvot* “a sacrality that is awarded by God to the faithful for having fulfilled his precepts.”¹²⁷ To ascertain this principle, upon the performance of a *miṣva* a “blessing” is pronounced.¹²⁸ It consists of four small segments. An invocation addressed to God (“Blessed are You God”), followed by an announcement that he is “King of the Universe,” i.e., the One having total Dominion over everything. The third segment ascertains that (consequently) he had “awarded us sanctity with his precepts,” concluding, “and prescribed us . . . ,” spelling out the specific precept about to be fulfilled. Conversely, biblical “idolatry” is not just worshipping idols, as per popular wisdom, but, as taught by the rabbis: *‘aboda zara*, an “alien,” non-*miṣva* “worship,” either because the ritual was not actually prescribed (see Lev. 10:1) or because the individuals performing the ritual were not charged with this responsibility (see Num. 16:17-17:5). This type of “worship” is repudiated totally and absolutely as *‘aboda zara* and it constitutes a supreme act of defiance to his Dominion camouflaged as religion.¹²⁹

The biblical ideal of God as Supreme King (instead of king as Supreme God) is more political than theological.¹³⁰ We may add that, correspondingly, God alone can claim Dominion over humankind by Right of Creation: *ex nihilo*. Throughout antiquity there were pagan monotheists,¹³¹ some of whom are mentioned in Scripture

¹²⁶ See Faur, *Homo Mysticus*, p. 3; idem, “Anti-Maimonidean Demons,” pp. 46–48. Cf. *Perush R. Abraham*, p. 302.

¹²⁷ See *Mekhilta de-R. Shim‘on bar Yohai*, J.N. Epstein and E.Z. Melamed, eds. (Jerusalem, 1955), on Exod. 19:6, p. 139 (ll.22-24); and *Sifre Bemidbar*, H.S. Horowitz, ed. (Jerusalem, 1966), #115, p. 127 (ll.7-12). This is what Joseph, B. Shab. 55a, meant when he taught that “sanctity” may not be “absorbed” from the sanctity at the Temple but must be acquired dynamically by fulfilling (*qiyymu*) the Torah.

¹²⁸ The original sense of “blessing” (how could a human *bless* his maker?!) has been lost. For an accurate understanding of the Hebrew “blessing,” see José Faur, “Delocutive Expressions in the Hebrew Liturgy,” in *Ancient Studies in Memory of Elias Bickerman* (*The Journal of the Ancient Near Eastern Society*), vol. 16–17 (1984–1985), pp. 41–54.

¹²⁹ See Faur, *Homo Mysticus*, pp. 10–11.

¹³⁰ *Medrash Haggadol, Genesis*, p. 205 (ll.15-16); Nimrod tells Abraham: “Don’t you know that I am *Adon* of everything there is? That by (my command) the Sun, the Moon, and the stars and constellations move! I created the entire Universe!”

¹³¹ There is an excellent collection of articles on pagan monotheism, edited by Polymnia Athanassiadi and Michael Frede, *Pagan Monotheism in Late Antiquity* (Oxford, 1999). This is why the concept of “Dominion” in pagan lore is paternal or political, but not divine; see Thomas Hobbes, *Leviathan*, chap. 20.

with deference.¹³² However, not a single pagan thinker is known to have expressed the belief that the One and only God has absolute Dominion over his creatures—and not the local monarch!¹³³ A principal corollary of biblical monotheism is rejection of a ruler with absolute sovereignty.¹³⁴ Hence, the gross antipathy towards the God of Israel, peculiar to dictators, megalomaniacs, and aspiring intellectuals.

VI

It has been lamented that “little trace of true Christian feeling” is present in the *Principia*.¹³⁵ In what follows we will show that Newton incorporated the Jewish doctrine of God’s Dominion in the “General Scholium” to the *Principia*:

[W]e admire him (God) for his perfection; but we reverence and adore him on account of his dominion; for we adore him as his servants; and a god without dominion, providence, and final causes, is nothing else but Fate and Nature. Blind metaphysical necessity, which is certainly the same always and everywhere, could produce no variety of things.¹³⁶

Reading the following paragraph in Latin, one would get the impression that somehow Newton was trying to link the concept of *Dominus* (Dominion) with *Deus* (God)—something that linguistically makes no sense.¹³⁷ It seems, however, that although writing in Latin, Newton,

¹³² See *Mishne Torah, Aboda Zarā* 1:2 (ll.30-31); cf. *Perush R. Abraham*, p. 302.

¹³³ Unlike Hananiah, Mishael, Azariah, and countless Jewish victims who said “No!” to their local Pharaoh. The ideology of anti-Semitism is more political than “religious.” For some insights, see José Faur, “On Martyrdom in Jewish Law: Maimonides and Nahmanides,” in *Memorial Volume in Honor of Prof. M.S. Feldblum* (Ramat-Gan), especially section I (Heb.).

¹³⁴ Some Jews in antiquity rejected all types of authority and refused to acknowledge a human as *despōtes* (= *dominus*) “master;” see Josephus, *Jewish Antiquities* (Loeb Classical Library), XVII, 23, vol. 9, p. 22. (Incidentally, there is no connection between the above sect mentioned by Josephus and the M. Yad. 6:7, *in fine*.) Obviously, this will lead to total anarchy and therefore never became part of the political ideology of Israel, which recognizes sovereignty *under* the Law.

¹³⁵ Giorgio de Santillana, “Newton the Enigma,” in his *Reflections on Men and Ideas* (Cambridge, Mass., 1968), p. 26.

¹³⁶ *Principia*, tran. by A. Motte and revised by F. Cajori, 2 vols. (Berkeley, 1934), vol. 2, p. 546.

¹³⁷ Naturally, the English translator of *Principia*, p. 544, note at the bottom of the page, assumed that Newton was thinking of the Latin *Deus/Dominium*. Since there is no linguistic relationship between these Latin terms, he suggested that perhaps “the Latin word *Deus* [derives] from the Arabic *du*...which signifies *Lord*.”

in the footsteps of Maimonides, was connecting *Adon*, “Lord,” with *Adonai*.¹³⁸ Here is what Newton wrote:

[F]or God [i.e., Hebrew *Adonai*] is a relative word, and has respect to servants; and *Deity* is the dominion of God not over His own body, as those imagine who fancy God to be the soul of the world, but over servants. The supreme God is a Being eternal, infinite, absolutely perfect; but a being, however perfect, without dominion, cannot be said to be Lord God; for we say, my God, your God, the God of *Israel*, the God of Gods, and Lord of Lords; we do not say, my Eternal, your Eternal, the Eternal of *Israel*; but every Lord is not a God. It is the dominion of a spiritual being which constitutes a God: a true, supreme, or imaginary dominion makes a true, supreme, or imaginary God. And from his true dominion it follows that the true God is a living, intelligent, and powerful Being; and, from his other perfections, that he is supreme, or most perfect. He is eternal and infinite, omnipotent and omniscient; that is, his duration reaches from eternity to eternity; his presence from infinity to infinity; he governs all things, and knows all things that are or can be done.¹³⁹

According to Maimonides, God’s Dominion is inherent to the idea of God as a necessary Being. This doctrine, too, was incorporated in the “General Scholium.” All agree, wrote Newton, “that the Supreme God exists necessarily.” He then goes on to describe God as “a Being necessarily existing.”¹⁴⁰ Given that only God is a necessary Being, nothing could be coeval with him; i.e., “creation” is essentially and fundamentally *ex nihilo*. Maimonides maintained that “causality,” “necessity,” as well as all the physical laws are the effect, not the source of “creation.” Hence, the laws ruling the universe do not apply to God.¹⁴¹ The preceding precludes identifying God as a force imminent in nature, acting as “the soul” of the world.¹⁴² “This Being,” wrote Newton, “governs all things, not as the soul of the world, but as Lord over all.”¹⁴³

¹³⁸ See above, n. 94.

¹³⁹ *Principia*, trans. by A. Motte and ed. by Florian Cajori (Berkeley, 1962), vol. 2, pp. 544–545.

¹⁴⁰ *Principia*, vol. 2, p. 546.

¹⁴¹ See *Guide*, I, 56; cf. *ibid.*, 35 (82); 63, p. 106 (ll.10-13). On the designation of God as “First Cause,” see *ibid.*, I, 69, and Faur, *Homo Mysticus*, pp. 89–94.

¹⁴² *Guide*, I, 70, p. 118 (ll.22-26); III, 29, p. 375 (ll.22-25). On this fundamental concept, see Philo, *The Special Laws*, I, 18 (Loeb Classical Library), vol. 7, p. 109.

¹⁴³ *Principia*, p. 544; cf. Isaac Newton, *Opticks* (New York, 1952, based on the Fourth Edition, London, 1730), *Qu.* 31, p. 403.

Fundamental to the doctrine of God as a “necessary Being,” is the belief that he acts not mechanically but as a *Manhig*, that is, as a willful, free agent. Maimonides pointed to the uneven distribution of celestial matter as well as the dissimilar motions of astral bodies, as an indication of choice and design, rather than necessity.¹⁴⁴ The chain of cause and effect, observed Newton, will eventually lead us “to the very first Cause, which certainly is not mechanical;”¹⁴⁵ the planetary system is “the Effect of choice” exercised by God.¹⁴⁶ Even though God had created a perfectly mechanical universe, he acts as “a voluntary Agent.”¹⁴⁷ “[T]he Motions which the Planets now have,” wrote Newton to Richard Bentley (1682–1742), “could not spring from any natural Cause alone, but were impressed by an intelligent Agent.”¹⁴⁸ Roger Cotes (1682–1716) further developed this theme in the “Preface to the Second Edition” of the *Principia* (1713) and attacked those who deny that the world “was caused by the will of God,” attributing it to “some necessity.” There is “not the least shadow of necessity” compelling the Creator. “Without all doubt this world,” he declared, “could arise from nothing but the perfectly clear free will of God directing and presiding over all.” Maimonides discerned in the anatomical and physiological arrangements, evidence of God’s exquisite care and providence.¹⁴⁹ God’s wisdom and management exhibited “in an ant or a bee,” remarked R. Judah ha-Levi (ca. 1071–1141), “is no less wondrous and subtle than his wisdom and management of the sun and its sphere.”¹⁵⁰ In the same vein, Newton wrote:

Can it be by accident that all birds, beasts, and men have their right side and left side alike shaped (except in their bowels); and just two eyes, and no more, on either side of the face; and just two ears on

¹⁴⁴ See *Guide* II, 19. Cf. above n. 116. This doctrine is the theme of the first blessing of the Evening *Shema*; cf. above, n. 114.

¹⁴⁵ *Opticks*, *Qu.* 28, p. 369.

¹⁴⁶ *Opticks*, *Qu.* 31, p. 402. Cf. *Guide* II, 20, pp. 218 (l.23)–219 (l.2), and Faur, *Homo Mysticus*, pp. 112–115.

¹⁴⁷ “Letters to Bentley,” I, reproduced in I. Bernard Cohen, ed., *Isaac Newton’s Papers & Letters on Natural Philosophy* (Cambridge, Mass., 1958), p. 282.

¹⁴⁸ *Ibid.*, p. 284.

¹⁴⁹ *Guide*, III, 12, p. 322 (l.28) ff.

¹⁵⁰ *Kuzari* III, 17, ed. and trans. by Y. Even Shmuel (Tel-Aviv, 1994), p. 112; cf. *ibid.*, I, 68, p. 21; IV, 25, p. 184; and V, 20 (iii), p. 228; see *Guide* II, 6, p. 183 (ll.11–25). The *Kuzari* was translated into Latin by Johannes Buxtorf and published in 1660.

either side [of] the head; and a nose with two holes; and either two forelegs or two wings or two arms on the shoulders, and two legs on the hips, and no more? Whence arise this uniformity in all their outward shapes but from the counsel and contrivance of an Author?¹⁵¹

Maimonides saw in the biological designs, particularly the eye, evidence of God's Providence and Guidance. On the basis of *Psalms* 94, he argued:

. . . If [God] would be impervious to the theory of sight, how these instruments which are essential for sight came about? Could one envision that by mere chance it came to pass that a transparent humor was produced, and beneath it another humor similar to it, and beneath it a certain membrane which by mere chance contains a perforation, and that underneath that membrane came about a transparent membrane which [by pure chance] is solid? By way of conclusion: could an intelligent person envisage, that the humors (making up) the eye, the membranes and nervous [system] that as it is well known, are so ingeniously planned—all of which designed to meet a single function [sight]—came about by mere chance? No! But, (then he would propose) necessarily that it is a design of nature, as put forward by every physician and philosopher!¹⁵² [But] don't all philosophers agree that nature has neither intelligence nor direction?!¹⁵³

¹⁵¹ *Memoirs of the Life, Writings, and Discoveries of Sir Isaac Newton*, vol. 2, pp. 347–348; cf. McLachlan, *Sir Isaac Newton Theological Manuscripts*, pp. 48–49; cf. *Opticks*, Qu. 31, pp. 369–370.

¹⁵² This is precisely what ancient pagans and atheists argued; see above, nn. 142–143. The modern anti-creationist theory is just a rehash of the old pagan belief in a certain organizing force *inherent* to nature, which organizes and directs. Conceptually, their most important contribution is that instead of referring to it as “spirit” or “soul” (terms denounced as heretical), it is now “scientifically” designated “random.” This very notion of “nature” was rejected by Nieto in his famous sermon; see Faur, *Golden Doves*, pp. 19–27. See the following note.

¹⁵³ *Guide*, III, 19, p. 346 (ll.11–22). The Jewish position on this matter was cogently formulated by Elie Benamozegh; see José Faur, “The Hebrew Species Concept and the Origin of Evolution: R. Benamozegh’s Response to Darwin,” in *Rassegna Mensile di Israel* 63 (1997), pp. 43–66. According to the anti-Creationist dogma, positing total randomness (if it is not “total” it could not be “random”), even if a color TV set were found in some remote astral spot, together with instruction in French and English, it would prove absolutely nothing about extra-terrestrial intelligence, since the design of a TV apparatus is infinitely less complex than the design of a single cell. Upon consideration, assuming their theory of total randomness, the papers and works produce by these luminaries could also be regarded the result of blind chance—there is less probability for the random production of a single petal of a rose than for some of the hodgepodge parading under the cloak of “science;” see Jeremy Campbell, *Grammatical Man* (New York, 1982), p. 16; Faur, *Golden Doves*, pp. 18–27, 59–60. For a full examination of this problem, see Ludwig von Bertalanffy, *General System Theory* (New York, 1968).

A similar view was echoed by Newton:

Whence is it that the eyes of all sorts of living creatures are transparent to the very bottom and only transparent skin and within transparent humors, with a crystalline lens in the middle and a pupil before the lens, all of them so finely shaped and fitted for vision that no artist can mend them? Did blind chance know that there was light and what was its refraction, and fit the eyes of all creatures after the most curious manner to make use of it? These and such like considerations always have and will prevail with mankind to believe that there is a Being who made all things and has all things in his power.¹⁵⁴

Given that God's existence is utterly different from anything else, Maimonides rejected all manners of anthropocentric theology.¹⁵⁵ Consequently, every form of anthropomorphisms and positive attributes are wrong and illegitimate.¹⁵⁶ The same with Newton:

Whence also he is all similar, all eye, all ear, all brain, all arm, all power to perceive, to understand, and to act; but in a manner not at all human, in a manner not at all corporeal, in a manner utterly unknown to us. As a blind man has no idea of colors, so have we no idea of the manner by which the all-wise God perceives and understands all things.¹⁵⁷ He is utterly void of all body and bodily figure, and can therefore neither be seen nor heard nor touched; nor ought he to be worshiped under the representation of any corporeal thing. We have ideas of his attributes, but what the real substance of anything is we know not . . . much less, then, have we any idea of the substance of God.¹⁵⁸

Not only are God's perceptions and actions unlike those of man, but his "knowledge" also is utterly dissimilar to ours. Therefore, Maimonides submitted that God's omniscience and omnipresence are not intrusive to human beings, and we remain free even though God has perfect foreknowledge of our actions.¹⁵⁹ Similarly, Newton

¹⁵⁴ *Memoirs of the Life, Writings, and Discoveries of Sir Isaac Newton*, vol. 2, p. 348. Cf. *Opicks, Qu.* 28, pp. 369–370.

¹⁵⁵ See Faur, *Homo Mysticus*, pp. 3–5, 89–90, 121–123.

¹⁵⁶ See *Guide*, I, 51, 53, 55, 57, 60, etc. José Faur, "The Character of Apophatic Knowledge in Maimonides' Guide," in Dan Cohn-Sherbok, ed., *Theodicy* (Lewiston, 1997), pp. 67–74.

¹⁵⁷ On the metaphor of the blind man, cf. Maimonides, *Perush ha-Mishnayot, Sanhedrin*, X, 1, vol. 4, p. 203.

¹⁵⁸ *Principia*, pp. 545–546. Cf. *Mishne Torah, Yesode ha-Torah* 2:10. On God's knowledge, see the quotation from Maimonides, in the following note.

¹⁵⁹ *Mishne Torah, Teshuva* 5:5; cf. *Yesode ha-Torah* 1:9, 2:10, and Faur, *Homo Mysticus*, pp. 93–94. On God's omnipresence, see José Faur, "God as a Writer: Omnipresence and the Art of Dissimulation," in *Religion and Intellectual Life* 6 (1989), pp. 31–43.

remarked: "God suffers nothing from the motion of bodies; bodies find no resistance from the omnipresence of God."¹⁶⁰ Given that God's existence is dissimilar to ours, Maimonides concluded that it is impossible to have direct knowledge of him,¹⁶¹ but only indirectly through his creations.¹⁶² Likewise, Newton wrote that, "We know him only by his most wise and excellent contrivances of things, and final causes."¹⁶³ Although it is impossible to have an immediate knowledge of God, Maimonides maintained that one can draw near him through the understanding of his creations.¹⁶⁴ Similarly, Newton wrote that when he developed the *Principia*, "I had an Eye upon such Principles as might work with considering Men for the Belief of a Deity."¹⁶⁵

VII

Basic to linguistic knowledge is the faculty of syntagmatic opposition between the speaking subject ("I") and the addressee ("you").

Dominion, in Hebrew intellectual tradition, is a fundamental dimension of humankind. Adam, so it seems, was the first humanoid to have been created in "the image of God" (Gen. 1:26). Unlike everything else, this creature alone had the singular ability of self-consciousness. Incisively, the Aramaic version associates this faculty with the linguistic apparatus and speech (Gen. 2:7).¹⁶⁶ Fundamental to the linguistic apparatus is the faculty to structurally connect the signifier (sound-image) with the signified (linguistic concept) and thus create a linguistic sign.¹⁶⁷ Interaction of these signs within the linguistic apparatus, permit humankind to communicate and develop

¹⁶⁰ *Principia*, p. 545.

¹⁶¹ *Guide* III, 20, p. 348 (ll.15-29); cf. I, 57-58.

¹⁶² *Guide* I, 34, p. 50 (ll.8-9); see 71, p. 126 (ll.25-27); III, 51, p. 456 (l.5) ff.

¹⁶³ *Principia*, p. 546.

¹⁶⁴ This kind of knowledge, however, does not lead to the ultimate knowledge of God. See *Guide* III, 51, p. 455 (l.28) ff.

¹⁶⁵ "Letter I to Richard Bentley," in *Isaac Newton's Papers & Letters on Natural Philosophy*, p. 280; cf. *Opticks*, *Qu.* 31, pp. 405-406. Maimonides (as well as the English *virtuosi*) believed that there are no contradictions between physics and Scripture and that the study of science is indispensable for the proper understanding of the God of Scripture; see *Mishne Torah*, *Yesode ha-Torah* 2:2; *Guide* I, 46; cf. *ibid.* 71 (end); III, 28, p. 373 (ll.16-22).

¹⁶⁶ See José Faur, "Person and Subjectivity: A Linguistic Category," in *Mentalities* 6 (1990), pp. 15-18.

¹⁶⁷ See Faur, *Golden Doves*, pp. xix, 71.

linguistic knowledge *without* having genuine comprehension of what they speak about. We can appreciate the rabbis' view (I sense a dash of humor in their words) that, in this respect, human beings are superior to angels, since the latter cannot communicate about matters that they don't comprehend fully. The most important function of the linguistic apparatus is to structure a syntagmatic opposition between the speaking subject ("I") and the addressee ("you"). "I"—the very feeling of subjectivity and self-consciousness—is a linguistic creation established by the syntagmatic opposition "I/you." Without a "you" there is no "I," and vice versa.¹⁶⁸ Adam's self-awareness and consciousness comes in stages. At first, he realizes his own differentiation within the animal kingdom, but is not yet conscious of his subjective "I." His own subjectivity he apprehends at a later stage, when realizing the syntagmatic opposition Adam/Adon.¹⁶⁹

The rabbis reported that before creating Adam, God consulted with the angels:

[God] asked them: "Shall we make Adam?"

They replied to him: "This Adam, what type [of creature] is he?"

God told them: "His wisdom is greater than yours." He then proceeded to parade before them beasts, wild animals, and birds.

He asked them: "This! What is it called?" But they did not know! "This! What is it called?" And they did not know! He then paraded them [the animals] before Adam.

He asked him: "This! What is it called?"

"This is an ox!

"This! What is it called?"

"This is a camel!"

"This! What is it called?"

"This is a donkey!"

"This! What is it called?"

"This is a horse!" . . .

"And you, what is your name?"

He [Adam] answered him [God]: "To me it would be fit to call Adam, since I was created from *Adama* (dust)."

"And what is my name?"

"To you it would be fit to call *Adon* (Master), since you are the Master of all your creations."¹⁷⁰

¹⁶⁸ See *ibid.*, pp. 41–48.

¹⁶⁹ See Faur, *Homo Mysticus*, pp. 4–5.

¹⁷⁰ *Bereshit Rabba* XVII, 4, vol. 1, pp. 155–156. Cf. above, n. 90. People who don't recognize God's Dominion believe in human dominion, either of their own or of others.

This means, in simple words, that devoid of consciousness of his syntagmatic relation to Adon, Adam will fall short of forging his own “I” and the “image of God” unique to his distinctive individuation.¹⁷¹

VIII

R. David Nieto came to London in 1701 and served as the head of the Sephardic synagogue *Sha'ar ha-Shamayim* at Bevis Mark until his death in 1728. Newton came to London to take up his appointment as Warden of the Mint in 1696. He moved several times and finally in 1709 he took up residence in a house at St. Martin's street, not too far from Leicester Square, where he lived until 1724. R. Nieto lived in a house next to the synagogue, about a mile from the Mint (at London's Tower). It is highly probable that Newton heard of Nieto, particularly after the rumpus caused by the sermon he delivered on November 20, 1703, negating the notion of “universal Nature”—a position strikingly similar to Newton's.¹⁷² We should bear in mind that Abendana and Nieto must have known each other well.¹⁷³ Not only did they belong to the closely knit circle of Spanish and Portuguese Jews, but more importantly they shared a similar educational background and represented the same intellectual tradition of religious humanism and pluralism. It would not be unreasonable to assume that Abendana had mentioned Newton to Nieto, and then Nieto to Newton. I have no proof that Nieto and Newton ever met. But, why shouldn't they? Nieto was the only Jew at the time who had the scientific background to read the *Principia*. Knowing what I know of Nieto's personality and his interest in science and Torah, it would be surprising if he would not have made some effort to meet Newton. I suppose that Newton, too, would have wanted to meet Nieto. In addition to sharing the same passion for Scripture, Rabbinic thought and literature, the calendar, history, religion, and science, Nieto was the only person (besides Abendana)

¹⁷¹ Cf. Faur, *Homo Mysticus*, pp. 8, 15–16, 127–128, 138–142.

¹⁷² See Faur, *Golden Doves*, pp. 18–22, and above, nn. 142–143.

¹⁷³ Abendana must have worshiped at *Sha'ar ha-Shamayim* where his brother, R. Jacob, served as rabbi (1680–1685). Nieto knew of Abenadana; see Kayserling, “Les Correspondants Juifs de Jean Buxtorf,” p. 272, n. 2; and of his calendars, see H. Graetz, “Wissenschaftliche,” in *Monatsschrift* 9 (1860), pp. 29–34; and the note of A. Berliner, *Magazin* 4 (1877), p. 235.

with whom Newton could discuss matters pertaining to his “dreadful secret.” At any rate, Nieto relates an event taken place before 1715. It runs as follows:

A man came to me and said: “I know that you are from the children of Israel and believe that there is a God, Creator, who is from Eternity. But I cannot believe that.”

I asked him: “Why?”

He replied: “Because I cannot mentally conceive how something can exist without a beginning.”

I asked him: “Then, who created the universe?”

He replied: “I do not know!”

I said to him: “There could only be two possibilities. You may either admit that [the universe] is eternal without a beginning or that there is a cause [external to it] that created it, and that cause is from eternity.”

He replied: “I think that [the universe] is from eternity.”

I replied: “You are contradicting yourself! First you stated that you cannot believe that there is a God, Creator, since it is impossible for you to mentally conceive that there can be something from eternity. Now you are ascertaining that the universe has no beginning!”

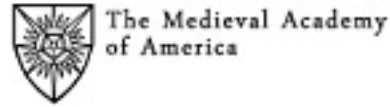
For a while he remained speechless. Then he said: “Your question perplexes me. I don’t know what to answer.”

I said to him: “You are acknowledging [the existence of] something from eternity. Mistakenly, however, you are attributing eternity to the creation, whereas you should have attributed eternity to the Creator. Now, confess and acknowledge that there is an Eternal [Being] and that that Eternal [Being] is the Creator, in contradistinction to the universe—a creation—which was created.”

Thereupon, he threw himself at my feet, sobbing with great joy. He then kissed me and hugged me and said: “You have bestowed life onto me! For now I know that there is a God, Creator of Heaven and earth, Wise, who Governs and exercises Providence over his creatures. He should bless and multiply you, and increase you in wealth, property, and glory.”¹⁷⁴

Could it be? I don’t know and have no support on the matter. But this does not prevent me from imagining (paraphrasing a more publicized but somehow less intellectually charged occasion), “That this might have well turned out to be the beginning of a wonderful friendship.”

¹⁷⁴ R. David Nieto, *Esh Dat* (London, 1715), II, #134, p. 33b.



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Olivi on the Hebrew Bible and the Jews: Scholastic Texts from Languedoc in the 1290s

By Elsa Marmursztejn

Abstract:

On the basis of unedited texts on the Old Law written by the Franciscan theologian Peter of John Olivi, this inquiry connects three different fields of historical research, namely the history of scholasticism, that of the Christian approach to the Hebrew Bible, and that of Jewish-Christian relations. The study of the contents and materiality of the texts, details on Olivi's life and career, and the setting of the academic and local contexts allow for the reconstruction of the intellectual environment where these texts were produced, circulated, and preserved. Olivi's doctrine was linked to the mainstream of scholastic works on the Old Law produced over the previous decades. The connection with Aquinas is particularly striking. At the same time, the provenance of the manuscript and a few clues suggest the difficult conditions in which the texts were copied and circulated, due to the vicissitudes of Olivi's career and the dissemination of his works after his death. The texts provide insights into contemporary perceptions of Jews, and for examining how Christians used Maimonides's *Guide of the Perplexed*. Finally, the article interrogates the contacts with real Jews in a region where the rich intellectual culture of Jewish scholars was largely influenced by Maimonides.

The place of Peter of John Olivi (d. 1298) is now well established in the history of scholasticism. The Franciscan theologian is counted among the most important thinkers of the thirteenth century, along with Thomas Aquinas (d. 1274) and Henry of Ghent (d. 1293).¹ Lost and forgotten for a long time,² his writings on speculative, exegetical, and practical issues have been preserved in more than 170 manuscripts,

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¹ Alain Boureau and Sylvain Piron, "Introduction," in *Pierre de Jean Olivi (1248–1298): Pensée scolastique, dissidence spirituelle et société*, ed. Alain Boureau and Sylvain Piron, Études de Philosophie Médiévale 79 (Paris, 1999), 9–14, at 10.

² Rediscovered by Franz Ehrle in the 1880s; see Ehrle, "Petrus Johannis Olivi, sein Leben und seine Schriften," *Archiv für Literatur und Kirchengeschichte des Mittelalters* 3 (1887): 409–552.

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despite the vicissitudes of their circulation.³ They place him among the most prominent Franciscan intellectuals of the thirteenth century, such as Bonaventure, John Peckham, or Richard of Mediavilla.⁴ His works are now regarded by any student of scholastic culture as being of primary importance.⁵ As regards the Jews, although Olivi showed a keen interest in biblical matters and spent most of his teaching life in *studia* of his native Languedoc, an area of substantial Jewish settlement, he never mentioned relations with Jews, nor did he display any particular interest in them.⁶

Yet, as Robert Lerner has shown, formulations about the conversion of the Jews appeared regularly over the course of his mature intellectual career, from around 1280, as part of an eschatological scenario which was meant to unfold as follows: in the sixth period of church history,⁷ beginning with Joachim of Fiore and Francis of Assisi, when the “carnal Church” would become ever more corrupt and blind “like a second synagogue,” the “spiritual men” from the ranks of the Franciscan order would convert the Jews, “just as apostles from the Jews converted the Gentiles when the Jewish synagogue was blinded.”⁸ The Jews would regain the sight they had lost at the time of Christ’s first advent and the whole world would be converted. The merger of gentiles and Jews was thus meant to characterize the earthly sabbath initiated by Christ’s second advent, and designed to last about seven hundred years, until his third and last coming.⁹ Although the Jews were not granted any active role in this process, their conversion was viewed as “indispensable for the future of Christianity insofar as it [would] provide a means for superseding the corruption of the carnal Church.”¹⁰

As a counterpoint to this theological construction of the “eschatological Jews” of the (near) future, two texts on the Hebrew scriptures¹¹ will enable us to interrogate

³ Sylvain Piron recently proposed a global chronological classification of Olivi’s works in “Chronologie des écrits de Pierre de Jean Olivi: Première partie. Avant 1279,” *Oliviana* 6 (2020): <http://journals.openedition.org/oliviana/1035> (last accessed 20 January 2021).

⁴ See Catherine König-Pralong, *Le bon usage des savoirs: Scolastique, philosophie et politique culturelle*, Études de Philosophie Médiévale 98 (Paris, 2011), 170.

⁵ König-Pralong, *Le bon usage des savoirs*, 169.

⁶ Robert E. Lerner, *The Feast of Saint Abraham: Medieval Millenarians and the Jews* (Philadelphia, 2001), 58–60.

⁷ On the seven periods of Church history, see David Burr, *Olivi’s Peaceable Kingdom: A Reading of the Apocalypse Commentary* (Philadelphia, 1993).

⁸ Robert Lerner, “Peter Olivi on the Conversion of the Jews,” in *Pierre de Jean Olivi (1248–1298)*, ed. Boureau and Piron, 207–16, at 211–12, and idem, *The Feast of Saint Abraham*, 64.

⁹ Lerner, *The Feast of Saint Abraham*, 62, 64–66. On the Olivian concept of Christ’s three advents (in the flesh, in the spirit, and in judgment), the consideration of which would require more space, given its importance in Olivi’s historical and exegetical thought, and especially its implications on the Olivian way of thinking about the Jews’ role in history, see Lerner, *The Feast of Saint Abraham*, 62, and Sylvain Piron, “Le métier de théologien selon Olivi: Philosophie, théologie, exégèse et pauvreté,” in *Pierre de Jean Olivi: Philosophe et théologien*, ed. Catherine König-Pralong, Olivier Ribordy, and Tiziana Suarez-Nani, *Scrinium Friburgense* 29 (Berlin, 2010), 17–85, at 29.

¹⁰ Lerner, “Peter Olivi on the Conversion of the Jews,” 212–13, and idem, *The Feast of Saint Abraham*, 64.

¹¹ These Latin texts will be published by the Belles Lettres, together with their French translation, in the “Bibliothèque scolastique” series as Elsa Marmursztejn, ed., *Pierre de Jean Olivi: Sur les lois de l’Ancien Testament* (forthcoming). The English translation of Olivi’s texts is now in preparation for Franciscan Institute Publications.

that of the “hermeneutical Jews”¹² of a present, when the synagogue is still “blinded.” Written by Olivi in Narbonne between 1292 and 1294,¹³ the four *Questions on the Laws of the Old Testament* [*Questiones de legalibus*] and the *Treatise on the Ceremonial Precepts* [*Tractatus ceremonialium*] survived in a single manuscript.¹⁴ Derived from teaching, the *Questions* corresponded to the main method of scholastic investigation: conflicting arguments were followed by a solution, then by the refutation of the initial objections. In this case, they offered a reflection on the different categories of precepts contained in the Law. They were probably to be part of the third book of the *Summa*¹⁵ in which Olivi organized, between c. 1294 and 1296, the disputed questions he had produced over the previous two decades. The main aim of this *Summa*, preserved in a fragmentary form, was to give its readers materials they could use in their own teaching.¹⁶ The *Treatise* might have had a similar purpose. Organized thematically, it expounded literal and spiritual reasons for the different types of ceremonial precepts to be found in the Old Testament. The primary importance of exegesis in Olivi’s intellectual project has been underlined. Departing from the notion of a scientific theology after the 1270s, Olivi put the reading of the scriptures at the core of his theological work.¹⁷ Although he drew on exegesis to different extents in the *Questions* and the *Treatise*, the former were not exegetical questions, and the treatise form of the latter allowed for greater expository clarity than a linear commentary would have done.¹⁸

The importance of these works outstrips the boundaries of textual history or Olivian studies. They were part of the long-standing Christian reflection on the status and nature of the Hebrew Bible, conceived of as the “Old Law” that Christ did not come to “abolish,” but to “fulfill,” as formulated in the Gospel of Matthew.¹⁹ In the 1290s they were also part of a fully fledged scholastic genre, which had emerged in the first decades of the thirteenth century and had been built up by the works of prominent theologians.²⁰ Christian understandings of the Hebrew Bible were not inconsequential. By conceiving itself as the fruit and the fulfillment of the Law that

¹² Gilbert Dahan, *Les intellectuels chrétiens et les juifs au Moyen Âge* (Paris, 1990), 538–39, 585, and Jeremy Cohen, *Living Letters of the Law: Ideas of the Jew in Medieval Christianity* (Berkeley, 1999).

¹³ The texts cannot be dated except from external evidence: Olivi announced the *Questions* in his second Quodlibet (1291), and his disciple Peter of Trabibus gave an abridged version of the first one in the third book of his commentary on Peter Lombard’s *Sentences* (1295); for further details, see Marmursztejn, ed., *Pierre de Jean Olivi: Sur les lois de l’Ancien Testament*, introduction (forthcoming).

¹⁴ Peter of John Olivi, *Questiones de legalibus*, Naples, Biblioteca Nazionale di Napoli, MS XII. A. 23, fols. 1ra–22va, and *Tractatus ceremonialium*, fols. 24r–46r.

¹⁵ See Piron, “Le métier,” 23 and n. 21.

¹⁶ Piron, “Le métier,” 24.

¹⁷ Piron, “Le métier,” 20, 39, 41, 50–51.

¹⁸ An investigation of the connection between these texts on the Old Law and Olivi’s exegetical works, albeit relevant, does not fall within the scope of the present paper and may provide the subject of further research.

¹⁹ Matt. 5.17.

²⁰ William of Auvergne, *De legibus*, in *Guilielmi Alverni episcopi Parisiensis opera omnia*, vol. 1, ed. François Hotot (Rouen, 1674), 18–102; Robert Grosseteste, *De cessatione legalium*, ed. Richard C. Dales and Edward B. King, *Auctores Britannici Medii Aevi* 7 (London, 1986); *Summa theologica Halensis: De legibus et praeceptis*. *Lateinischer Text mit Übersetzung und Kommentar*, ed. Michael Basse, Veröffentlichungen des Grabmann-Institutes zur Erforschung der Mittelalterlichen Theologie

the Jews failed to understand, Christianity claimed the unity of the two Testaments, which forged an unbreakable bond between the “Old” Law and the “New.” It established in the long term what amounted, from the Jews’ perspective, to a misappropriation and a dispossession, while also justifying their very existence within Christian societies. According to Augustine’s most influential doctrine, the Jews should indeed be allowed to live among Christians because they preserved the ancient Hebrew text of Scriptures, thereby serving to confirm the veracity of prophecies about Christ. “Witnesses of their own iniquity” as well as of the Christian truth,²¹ they were living reminders of the Law and the Passion, and had to be kept in a subjugated state until their ultimate conversion.²²

In the thirteenth century, Christian thinking regarding the Old Law was the meeting point of a dominant theology, in which the biblical text had and maintained a founding role, and the group whose very existence was justified as bearer of a truth it was nevertheless unable to understand. The Christian appropriation of the Old Law was expressed in two ways: in the general doctrine of supersession, which was less about the substitution of the law of Christ for that of Moses than the absorption of the latter by the former; and through a focused exegetical work carried out on the biblical text in order to reveal and impose its spiritual meaning. Both approaches can be found in Olivi’s works on the Old Law. The study of these texts not only helps investigate Christian conceptions and uses of the Hebrew Bible in the cultural context of scholasticism, but also interrogates the impact such scholastic conceptions and uses had on the shaping of Jewish otherness.

This study is an exercise in intellectual history, which closely links the study of texts and the multifaceted conditions of their production and dissemination. Olivi’s texts on Hebrew scriptures will be examined in connection with his position in the scholastic landscape but also in the plenitude of their material manuscript form. Although these texts derive from an established intellectual tradition, some inconsistencies in their structures and a few other clues suggest particular difficulties in the process of their transmission. Olivi’s approach to the Jews will be investigated through his assessments on the Old Law, while keeping in mind the ways in which they might have been influenced by the local context. Olivi spent most of his life in Languedoc, a region with a rich intellectual culture of Jewish scholars. In such a context, were the Jews of his texts on the Law only the “hermeneutical Jews” crafted through theological thinking, or might they also refer to real people?

The distinction between “hermeneutical” and “real” Jews, raising the issue of their links and relative weights, has become increasingly important in the historiography of Jewish-Christian relationships. The “hermeneutical Jew,” defined by Jeremy Cohen as “constructed in the discourse of Christian theology, and above all in Christian theologians’ interpretation of Scripture,”²³ is now a meaningful

und Philosophie 62 (Berlin, 2018), online: <https://www.degruyter.com/document/doi/10.1515/9783110516319/html>; and Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 98–105 and 107.

²¹ Augustine, *Enarrationes in Psalmos*, Ps. 58, 1, cap. 22, PL 36:705; see also, Marcel Simon, *Verus Israel: Étude sur les relations entre chrétiens et juifs dans l’Empire romain (135–425)*, Bibliothèque des Écoles françaises d’Athènes et de Rome 166 (Paris, 1948; 2nd ed. 1983), 119; and, more generally, Paula Frederiksen, *Augustine and the Jews: A Christian Defense of Jews and Judaism* (New York, 2008).

²² Isaiah 10.20–22, and Rom. 9.27.

²³ Cohen, *Living Letters of the Law*, 2–3.

category for the study of the place of Jews in medieval Christendom. By embodying “a particular reading of Holy Scripture, one that established the truth of Christianity in its own right and illuminated the contrasting Christian exegesis of the Bible,”²⁴ this Jewish figure met the needs of Christian doctrine and hermeneutics. Throughout the Christian process of self-definition, theology and exegesis thus “created a Jew of their own.”²⁵ Although this Jew had relatively little to do with real people, “his career certainly influenced the Christian treatment of the Jewish minority.”²⁶

In recent years, David Nirenberg has reworked these ideas within a broader scope, both thematically and chronologically,²⁷ in terms of interaction rather than influence. Recalling that “Judaism” was “not only a religion practiced by living adherents but also a basic epistemological and ontological category in the thought of non-Jews,”²⁸ he points to the distinction between “figures of flesh” and “figures of thought,”²⁹ and considers how real experiences of interreligious contact interacted with concepts and habits of thought. While highlighting the “tensely productive relationship”³⁰ of the two figures, he points out that the “hermeneutical Jew” did not require the presence of living Jews to function within an “oppositional process of identification” by means of which Christians defined themselves against Jews and Judaism.³¹ Conversely, the presence of real Jews “in no way diminished the power of ‘Judaism’ as a concept in Christian thought that could be used to make sense of many aspects of the world . . . that had no obvious relation to ‘real’ Judaism.”³²

However, the “figures of thought” were not “independent or determinative of the social world in which they were deployed. Quite on the contrary,” “figures of thought” and “figures of flesh” were “so intertwined as to be empirically inseparable.”³³ Furthermore, the “figures of thought” represented a potential which was by no means unchanging. It could be activated and deployed in many new ways,³⁴ whether real Jews were present or not. Such an approach led to combining a consideration of local contexts with a particular attention to the power of ideas. In keeping with this approach, we will assume that the reflection on the Hebrew Bible that Olivi developed in late-thirteenth-century Languedoc was—albeit unnecessarily—inspired or spurred by the local presence of Jews, that it was possibly fuelled by contacts with real Jews, and that it might in turn have affected both

²⁴ Cohen, *Living Letters of the Law*, 2.

²⁵ Ibid.

²⁶ Cohen, *Living Letters of the Law*, 5.

²⁷ See David Nirenberg, *Anti-Judaism: The Western Tradition* (New York, 2013); idem, *Neighboring Faiths: Christianity, Islam, and Judaism in the Middle Ages and Today* (Chicago, 2014); and idem, *Aesthetic Theology and Its Enemies: Judaism in Christian Painting, Poetry, and Politics* (Waltham, MA, 2015).

²⁸ Nirenberg, *Neighboring Faiths*, 121.

²⁹ David Nirenberg, “Figures of Thought and Figures of Flesh: ‘Jews’ and ‘Judaism’ in Late-Medieval Spanish Poetry and Politics,” *Speculum* 81/2 (2006): 398–426, and *Neighboring Faiths*, chapter 6, 117–41.

³⁰ Nirenberg, *Neighboring Faiths*, 121.

³¹ Nirenberg, *Neighboring Faiths*, 108.

³² Nirenberg, *Neighboring Faiths*, 117–18.

³³ Nirenberg, *Neighboring Faiths*, 133.

³⁴ Nirenberg, *Aesthetic Theology*, 24.

the Christian representations of Jews and “the possibilities of life for Jews (and Christians) of flesh and blood.”³⁵

1. THE FORMS OF AN ACADEMIC INTEGRATION

Scholastic Genres and References

The four *Questions on the Laws of the Old Testament* and the *Treatise on the Ceremonial Precepts* were scholastic works in genre, content, and method of reference. At the most general level, they were scholastic works in a genre that developed in the first decades of the thirteenth century. Olivi's texts are part of this corpus of questions or treatises *de legibus*, *de legalibus*, or *de cessatione legalium*, developed by William of Auvergne, Robert Grosseteste, John of La Rochelle (who worked with Alexander of Hales and wrote the part of the *Summa Halensis* regarding the Law),³⁶ and Thomas Aquinas. Besides, the extensive answer to the fourteenth argument of Olivi's first Question is nothing but a treatise on the Decalogue,³⁷ where Olivi accounts for the number, order, and moral contents of the ten precepts. This part of the text fits into a genre born in the thirteenth century, developed in the fourteenth, and exemplified by the works of Robert Grosseteste, John of la Rochelle, Thomas Aquinas, John of Wales, Peter Aureol, Francis of Meyronnes, Matthew of Aquasparta, or Henry of Friemar.³⁸ Olivi's short treatise ends with a table, where the effects of observance and transgression of each precept of the Decalogue are set in two distinct columns.³⁹

Different factors may help explain the particular part played by the thirteenth-century intellectuals, who developed a conception of the Law which was not new, since it derived from a long tradition which can be traced back to the very origins of Christian doctrine.⁴⁰ Beryl Smalley pointed out the possible influence of the thirteenth-century religious dissidents in southern France. By rejecting the Old Testament as

³⁵ Ibid. The latter assumption does not mean in any way that these texts alone had the power to affect Christian representations of Jewish life. However, as has been said, they were part of a fully fledged scholastic genre. Moreover, although their only tangible impact can be traced back to the abridged version of Olivi's first *Questio de legalibus* produced in 1295 by his disciple Peter of Trabibus, these texts were clearly meant to teach, at a time when Olivi seems to have been particularly willing to disseminate his teachings. While the Franciscan did not preach himself, he produced *materia predicabilis*. Antonio Montefusco and Sylvain Piron assumed that, even in his lifetime, his doctrine might have been disseminated to a lay audience through sermons. See Antonio Montefusco and Sylvain Piron, “In vulgari nostro: Présence et fonctions du vernaculaire dans les oeuvres latines d'Olivi,” *Oliviana* 5 (2016): <http://journals.openedition.org/oliviana/904> (last accessed 3 January 2020).

³⁶ See Silvana Vecchio, “La riflessione sulla legge nella prima teologia francescana,” in *Etica e politica: Le teorie dei frati mendicanti nel Due e Trecento. Atti del XXVI Convegno internazionale, Assisi, 15–17 ottobre 1998*, Atti dei Convegni della Società Internazionale di Studi Francescani e del Centro Interuniversitario di Studi Francescani Nuova Ser. 9 (Spoleto, 1999), 121–51.

³⁷ Olivi, *Questiones de legalibus*, q. 1, ad 14, fols. 7ra–8vb.

³⁸ See Vecchio, “La riflessione,” 122–23 and n. 7, and eadem, “Aux origines de la catéchèse chrétienne: Saint Augustin et la ‘redécouverte’ médiévale du Décalogue,” in *Les réceptions des Pères de l'Église au Moyen Âge: Le devenir de la tradition ecclésiale. Congrès du Centre Sèvres – Facultés jésuites de Paris (11–14 juin 2008)*, 2 vols., Archa verbi. Subsidia 10 (Münster, 2013), 1:237–54.

³⁹ Olivi, *Questiones de legalibus*, q. 1, ad 14, fol. 8vb.

⁴⁰ See Simon, *Verus Israel*, and Vecchio, “La riflessione,” 132 and n. 32.

the product of the bad principle of material creation, they may have led the defenders of orthodoxy to emphasize the divine origin and the beneficial qualities of the *legalia*, and to develop a deeper reflection on the literal meaning of the Old Law, which had provided guidance to the chosen people of God.⁴¹

The cultural and intellectual changes which brought about the “scholastic turn”⁴² of the thirteenth century obviously constituted a key factor. As Alain Boureau has pointed out, a major shift occurred in the regime of access to truth, which now became a “construction or a reconstruction”⁴³ through an inquiry which juxtaposed conflicting authorities, in keeping with Abelard’s methodological program,⁴⁴ and which was best reflected in the disputed *questio*. The rational procedures of the scholastic method made it possible to account for what may seem absurd and useless in the Old Law that the church had nonetheless absorbed as a divine and founding material.

Around 1225–30,⁴⁵ the Latin translation of the *Guide of the Perplexed* (the original Arabic text was completed by Maimonides in Egypt in 1190, then translated into Hebrew in 1204, in Languedoc, by Samuel Ibn Tibbon) may be a third significant factor. In the last part of the *Guide*, after he divided the commandments into fourteen categories, Maimonides stated that he would examine “the commandments belonging to each class, namely, those of which it may be fancied that they have no utility or that they constitute a decree that cannot be comprehended by the intellect in any way,” and “explain the reasons for them and in what respect they are useful, making an exception only for those few whose purpose I have not grasped up to this time.”⁴⁶

The Latin translation of the *Guide of the Perplexed* was used by most Christian authors who tackled the nature, validity, and utility of the Old Law; Maimonides’s work also influenced the fields of philosophy, astronomy, and medicine.⁴⁷ William of Auvergne was one of the first authors to use the *Guide*.⁴⁸ In the treatise *De*

⁴¹ See Beryl Smalley, “William of Auvergne, John of la Rochelle and St. Thomas Aquinas on the Old Law,” in *Studies in Medieval Thought and Learning from Abelard to Wyclif* (London, 1981), 132–33.

⁴² Alain Boureau, *L’Empire du Livre: Pour une histoire du savoir scolastique (1200–1380). La Raison scolastique II* (Paris, 2007), 170.

⁴³ Alain Boureau, “Droit et théologie au XIII^e siècle,” *Annales: Économies, Sociétés, Civilisations* 47/6 (1992): 1113–25, at 1116.

⁴⁴ See Peter Abelard, *Sic et non: A Critical Edition*, ed. Blanche B. Boyer and Richard McKeon (Chicago, 1976), 103, and Boureau, “Droit et théologie,” 1114.

⁴⁵ According to Gilbert Dahan, *Lire la Bible au Moyen Âge: Essais d’herméneutique médiévale* (Geneva, 2009), 373. Görg K. Hasselhoff has pointed out that from 1223 or 1224, the *Liber de parabola* was the “first testimony of a hidden reception” of the *Guide of the Perplexed*; partly based on the *Guide*, it offered the translation of chapters 29–30 and 32–49 of its third part: Hasselhoff, “The Reception of Maimonides in the Latin World: The Evidence of the Latin Translations in the 13th–15th Centuries,” *Materia Giudaica* 6 (2001): 258–80; according to the same author, a full translation of the *Guide* was not available before the 1240s: Görg K. Hasselhoff, “The Translation of Maimonides’ *Dux neutrorum* as a Reaction to the Talmud Trial?,” in *The Talmud in Dispute during the High Middle Ages*, ed. Alexander Fidora and Görg K. Hasselhoff (Barcelona, 2019), 219–33.

⁴⁶ Maimonides, *The Guide of the Perplexed* 3.35, ed. Shlomo Pines, 2 vols. (Chicago, 1963), 2:538.

⁴⁷ See Görg K. Hasselhoff, *Dicit Rabbi Moyses: Studien zum Bild von Moses Maimonides im lateinischen Westen vom 13. bis zum 15. Jahrhundert*, (Würzburg, 2004).

⁴⁸ See Wolfgang Kluxen, “Maimonides and Latin Scholasticism,” in *Maimonides and Philosophy: Papers Presented at the Sixth Jerusalem Philosophical Encounter, May 1985*, ed. Shlomo Pines and Yirmiyahu Yovel, (Dordrecht, 1986), 224–32, at 225.

legibus, around 1230, he asserted that the whole God-given Law of Moses was good; it had nothing useless, nothing absurd, and one could find a rational cause or a sufficient reason for whatever it ordered, forbade, or established.⁴⁹ Such assertions of course did not rule out the traditional explanation of the Hebrew Scriptures in terms of prefiguration of Christian truths. The special interest in the literal sense, which the Victorine school had enhanced in the twelfth century,⁵⁰ was combined with the doctrine of prefiguration and contributed to the Christian appropriation of the biblical text.

Olivi worked within this cultural context, and his writings on the Old Law unsurprisingly depended on the *De legibus* or *De legalibus* scholastic genre. The main structure of the first three *Questions on the Laws of the Old Testament* follows the general classification of the precepts of the Old Law commonly used after the *Summa aurea* by William of Auxerre⁵¹ (between 1215 and 1229). The precepts were usually divided into three categories: the *moralia* [moral precepts], produced by natural reason, were deemed good per se and therefore immutable; the *cerimonialia* [ceremonial precepts], which were the rules of divine worship, only foreshadowed future events (as the immolation of the pascal lamb foreshadowed Christ's death), and had lost their salvific value since the Incarnation; and the *iudicialia* [judicial precepts], which ruled human relationships, determined the forms and contents of judgments, varied over times and places, and could be suppressed or maintained according to each case.

According to Aquinas's *Summa theologiae*, the ceremonial precepts specified the moral precepts with respect to God, whereas the judicial precepts specified the moral precepts with respect to one's neighbor.⁵² In the case, Olivi was inspired by the wording of the Franciscan John of La Rochelle, who established in the *Summa Halensis* that the Law contained "three main types of precepts: the moral precepts, the judicial precepts, and the ceremonial precepts; for, as Augustine says, there is a category of precepts 'of the life to be signified' and these are the ceremonial precepts, and a category of precepts 'of the life to be lived,' which is twofold because the reason for action is: what is honest . . . and what is useful": the moral precepts pertained to what was honest, which attracted and enticed by its dignity; the judicial precepts pertained to what was useful, for they were designed to remove what impeded the observance of the Law.⁵³

The relation of Olivi's works on the Old Law with Thomas Aquinas's *Summa theologiae* is particularly striking.⁵⁴ Although Aquinas used the texts by John of La Rochelle,⁵⁵ it is clear that Olivi followed the Dominican master rather than the Franciscan one. Aquinas can be easily identified among the *doctores moderni* Olivi

⁴⁹ William of Auvergne, *De legibus*, ed. Hotot, 25.

⁵⁰ See Beryl Smalley, *The Study of the Bible in the Middle Ages*, 3rd ed. (Notre Dame, 1978), 83–195.

⁵¹ William of Auxerre, *Summa aurea* 3.44.4, ed. Jean Ribailier, 2 vols. (Grottaferrata, 1986), 2:843.

⁵² See Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 101, a. 1, *responsio*.

⁵³ *Summa theologiae Halensis*, Lib. 3, Pars 2, Inq. 3, Tr. 1, q. 2, cap. 1, ed. Basse, 290.

⁵⁴ The section of the *Summa theologiae* Aquinas devoted to the Law corresponds to questions 98–105 of the Ia IIae, written in 1271.

⁵⁵ As Beryl Smalley showed in "William of Auvergne, John of la Rochelle and St. Thomas Aquinas on the Old Law," 166–77.

mentioned without naming, in the scholastic manner, at the beginning of the *Treatise on the Ceremonial Precepts*.⁵⁶ Much of the material in this treatise was almost literally taken from the texts Aquinas dedicated to the ceremonial precepts of the Law, and it fitted into the framework that the Dominican master used to organize his own questions.⁵⁷ That first meant dealing with sacrifices and offerings, secondly with the sacred places and times, thirdly with the sacraments, and lastly with the observances. In substance, Olivi's text is so dependent on Aquinas's *Summa* that his *Treatise* is sometimes like an extensive note-taking, including annotations and suggestions of alternative interpretations into the text itself. Olivi obviously had Aquinas's text constantly open before him as he composed his own. As Sylvain Piron has pointed out, Olivi kept a copy of the *Summa theologiae* at hand during his whole career, as from the 1270s.⁵⁸ Some parts were proper to Olivi, however, not only in the spiritual interpretations, as is often the case, but also, for instance, in the description he gives of leprosy within a section of the third part dealing with purifications, thus commenting on chapter 13 of Leviticus.⁵⁹ In formal terms, the "literal reasons" and "mystical" or spiritual ones are not as strictly organized as they were in the corresponding texts of Aquinas, where the explanation of the "figurative" or spiritual meanings systematically followed the explanation of the literal ones. In a more general way, it should be noted that, when writing his treatise, Olivi mostly borrowed from Aquinas's solutions and refutations of the objections. He left out the conflicting arguments which initiated the articles of the *Summa*, in keeping with the usual structure of scholastic *questiones*. By doing so, Olivi stripped the material of its agonistic and dialectic characteristics. He thus changed the very genre of the text he used, by turning a material which was initially organized in questions—the *Summa*'s articles—into a treatise.

This dependence probably requires a brief comment, considering the significance of Olivi's Franciscan identity in his life, career, and intellectual work, and also the offensive against the Dominicans the Franciscans launched from the 1260s, and especially against Aquinas, seen as an accomplice to the supporters of radical Aristotelianism at the Paris faculty of arts.⁶⁰ In 1282, the general chapter of the Franciscans, meeting at Strasbourg, decreed that the reading of Aquinas's *Summa theologiae* be restricted "to notably intelligent readers"⁶¹ and be guided by the use of the *Declarationes* by the English Franciscan William de la Mare.⁶² These *Declarationes* were written on the basis of the second version of the *Correctorium fratris Thomae* William

⁵⁶ Olivi, *Tractatus cerimonialium*, fol. 24r: "Secundo sciendum quod doctores moderni distinguunt huiusmodi cerimonialia in quattuor genera, scilicet in sacra, in sacrificia, in sacramenta et in observantias."

⁵⁷ Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 101, a. 3 to 6.

⁵⁸ Peter of John Olivi, "Notes complémentaires," in *Traité des contrats*, ed. and trans. Sylvain Piron, Bibliothèque Scolastique 5 (Paris, 2012), 333.

⁵⁹ Olivi, *Tractatus cerimonialium*, fol. 31r–v.

⁶⁰ Luca Bianchi, *Censure et liberté intellectuelle à l'université de Paris: XIIIe–XIVe siècles* (Paris, 1999), 212.

⁶¹ See P. Glorieux, "Non in marginibus positus," *Recherches de Théologie Ancienne et Médiévale* 15 (1948):182–84, at 182.

⁶² William of La Mare, *Declarationes magistri Guilelmi de la Mare OFM de variis sententiis S. Thomae Aquinatis*, ed. Franz Pelster (Münster, 1956).

published in 1278. They contained a list of sixty propositions excerpted from the *Summa theologiae*.⁶³ However, these excerpted propositions had nothing to do with the passages Olivi used to write his texts on the Hebrew Bible. By and large, scholastic theologians freely used the texts outside the forbidden zones delineated by censored propositions.

Furthermore, Olivi was surely not unique among Franciscans in reading and using Aquinas's works. To take only one example, the Italian Matthew of Aquasparta, who entrusted Olivi with a teaching position in Florence when he was elected minister general of the Franciscan order in 1287, who had previously taught in Bologna, in Paris, and in the Roman curia, and who ended his career as a cardinal in 1288, used Aquinas to write his *Commentary on Job*; his disputed questions contain extensive quotations from the Dominican master. Dating from 1287, the act of donation of his books to the Todi and Assisi convents shows that he owned a number of Aquinas's works, since it mentions the *Commentary on Job*, the first three books of the *Summa theologiae*, and some disputed questions.⁶⁴ Olivi also drew on Aquinas's *Summa* in other works besides the *Questions* and the *Treatise on the Ceremonial Precepts*. The *Treatise on Contracts* he wrote in Narbonne around 1293 was built up from two questions of the *Summa*, and his discussion was less a critique of Aquinas than a way to deepen his perspectives.⁶⁵ Therefore, Olivi depended less on a "Franciscan school" than on broader "intellectual networks" which extended well beyond the institutional boundaries of the religious orders, and give evidence of the complexities of the scholastic intellectual practice and positions. Similarly, while being a strong opponent of the mendicant friars in the conflict at the University of Paris during the second half of the thirteenth century, the secular master Godfrey of Fontaines loudly protested against the effects that the 1277 doctrinal condemnations had on intellectual work in general, and on the doctrine of Thomas Aquinas in particular.⁶⁶

A SCHOLASTIC THEOLOGIAN OUTSIDE THE UNIVERSITY

Olivi's texts on the Old Law were not the only witnesses to his involvement in scholastic discussions and indebtedness to the thirteenth century intellectual tradition. While his inventiveness in many fields, such as physics, metaphysics, or exegesis, is widely acknowledged, David Burr also showed that, up to a point, Olivi's positions in his *Apocalypse commentary* were in keeping with some fundamental assumptions of the mendicant exegesis of this text.⁶⁷ Piron has similarly considered

⁶³ See François-Xavier Putallaz, *Insolente liberté: Controverses et condamnations au XIIIe siècle*, Vestigia 15 (Paris, 1995), 93–126.

⁶⁴ See Louis-Jacques Bataillon, "Matthieu d'Aquasparta, lecteur de Thomas d'Aquin," *Revue des sciences philosophiques et théologiques* 78/4 (1994): 584–86.

⁶⁵ Olivi, *Traité des contrats*, ed. and trans. Piron, foreword, at 20.

⁶⁶ See Elsa Marmursztejn, *L'autorité des maîtres: Scolastique, normes et société au XIIIe siècle*, (Paris, 2007), 75.

⁶⁷ See Burr, *Olivi's Peaceable Kingdom*, 76, 85, 104, 240–42, and Kevin J. Madigan, "The History of Thirteenth-Century Biblical Exegesis: The Contribution of David Burr," *Oliviana* 1 (2003): <http://journals.openedition.org/oliviana/10> (last accessed 2 April 2019).

that the *Treatise on Contracts* conveyed the “normal state” of the science involved and was indebted to the intellectual traditions of its time, its main novelty resulting from Olivi’s ability to use and systematize available elements of analysis.⁶⁸ These facts may seem to be at odds with his institutional position. The latter could indeed be viewed as peripheral, for the events that shaped his career made it impossible for him ever to achieve the rank of university master.

A few biographical details should be recalled in order to understand this apparent peculiarity. After entering the Franciscan order in Béziers around 1260, Olivi studied in Montpellier, and then stayed in Paris for six years (c. 1267–73) which proved to be crucial in the formation of his intellectual project.⁶⁹ After the four-year “lectorate programme” through which each province of the Franciscan order could send some of their best students to complete their training in theology at the Paris convent,⁷⁰ Olivi was probably appointed by Minister General Bonaventure as a teacher in natural philosophy, to train the young Franciscans to fight the growing Aristotelianism and “philosophical errors.”⁷¹ In the spring of 1273, he heard Bonaventure’s *Collations on the Six Days*, from which he derived a number of his further orientations, such as the primacy accorded to exegesis⁷² or the structure of his theology of history.⁷³ Upon his return to Languedoc around 1275, Olivi taught theology in the convent of Narbonne until 1279,⁷⁴ then Montpellier until 1283, when he was denounced by a colleague, Arnaud Gaillard, who had been opposing him on a variety of issues for several years, and censured by his order after his writings were examined by a committee of seven Franciscan scholars. Olivi was then deprived of his works and forbidden to teach. This condemnation made his return to Paris impossible. He never attained the position of *baccalaureus*.⁷⁵ Reinstated in 1287 by the newly elected minister general, Matthew of Aquasparta, he was entrusted with a teaching position in Florence, at the convent of Santa Croce. Two years later, he went back to Montpellier thanks to another minister general, Raymond Geoffroy. The

⁶⁸ Olivi, *Traité des contrats*, ed. and trans. Piron, foreword, at 20–21, 70–71.

⁶⁹ Sylvain Piron, “The Formation of Olivi’s Intellectual Project: ‘Petrus Ioannis Olivi and the Philosophers’ Thirty Years Later,” *Oliviana* 1 (2003): <http://journals.openedition.org/oliviana/8> (last accessed 20 March 2019).

⁷⁰ See William J. Courtenay, “The Parisian Franciscan Community in 1303,” *Franciscan Studies* 53 (1993): 155–73, at 158–59, and idem, “Franciscan Learning: University Education and Biblical Exegesis,” in *Defenders and Critics of Franciscan Life: Essays in Honor of John V. Fleming*, ed. Michael Cusato and G. Geltner (Leiden, 2009), 55–64, at 56.

⁷¹ On this hypothesis, see Piron, “Le métier,” 30–31, 34.

⁷² On Olivi’s exegetical works, see Dahan, “L’exégèse des livres prophétiques chez Pierre de Jean Olivi,” in *Pierre de Jean Olivi (1248–1298)*, ed. Boureau and Piron, 81–114, and Piron, “Le métier,” 17–85.

⁷³ Piron, “The Formation,” § 6–8, and “Le métier,” 41.

⁷⁴ He probably reached the position of *lector biblicus* at the Montpellier *studium generale* in the autumn of 1279, where he held his inaugural lessons on scriptures (edited by David Flood and Gedeon Gál in *Peter of John Olivi on the Bible: Principia quinque in sacram scripturam. Postilla in Isaiam et in I ad Corinthios*, Franciscan Institute Publications Text Series 18 [New York, 1997]), and then produced a series of biblical commentaries, on Matthew, Isaiah, Job, John, and Genesis; see Piron, “Le métier,” 52, and Sylvain Piron, “Franciscan Quodlibeta in Southern *studia* and at Paris, 1280–1300,” in *Theological Quodlibeta in the Middle Ages: The Thirteenth Century*, ed. Christopher Schabel, Brill’s Companions to the Christian Tradition 1 (Leiden, 2006), 403–38, at 412.

⁷⁵ Piron, “Franciscan Quodlibeta,” 412.

general chapter of 1292 sent him to the lesser *studium* of Narbonne, where he taught until his death in March 1298.⁷⁶

While Olivi remained on the fringe of the main institutions of knowledge, it should be noted that his academic situation was not exceptional, since the number of university graduates within the Franciscan order was extremely limited. Olivi kept teaching in *studia* of different levels, some of which actually functioned as “small-scale theology [faculties].”⁷⁷ While the Narbonne *studium* only hosted students from within the province, the Montpellier and Florence convents functioned as *studia generalia*. Strikingly, quodlibetal questions (special theological disputations, held c. 1230–1330 and most consistently practiced at the University of Paris, where the audience asked the great masters in theology a variety of questions *de quolibet*, that is, “about anything”),⁷⁸ were disputed in all these schools, making it clear that they all were “important centres on the intellectual map of Europe”⁷⁹ and suggesting that “the capacity for holding such disputes may have been attached more to the person than to the place.”⁸⁰

As Piron has shown, Olivi’s *Quodlibeta* can be dated from the final decade of his career, more precisely from 1289, when Minister General Raymond Geoffroy appointed him in Montpellier and might have allowed or even encouraged him to hold quodlibetal disputations. At this stage of his career, he could act as a regent master.⁸¹ However, Olivi also produced *Quodlibeta* when he was teaching in the lesser *studium* of Narbonne, from 1292. As these disputations were tightly connected to their teaching and social contexts, the biblical and metaphysical questions asked and debated in Olivi’s earlier *Quodlibeta*, held in the higher *studium* of Montpellier, were entirely replaced by practical issues.⁸² Yet, the *Questions on the Laws of the Old Testament* and the *Treatise on the Ceremonial Precepts* were produced over the same period. They suggest that the interests of the students (and of a broader lay audience),⁸³ as expressed in a quodlibetal context, may then have been different from those of the lector, who was the one to decide on the ordinary questions to be disputed, and on the topics of his treatises. It may be also that the smaller group of the lector’s students was a better audience for lesser practical issues.

The methods and references Olivi used and the topics he tackled were fully scholastic, and, as David Burr has pointed out, “his [academic] status did not deter him from taking a very definite stand on certain issues.”⁸⁴ However, scrutiny of the texts in their original and material form reveals particular inconsistencies, and the manuscript provides clues as to the conditions in which they may have been

⁷⁶ Piron, “Franciscan Quodlibeta,” 413.

⁷⁷ Piron, “Franciscan Quodlibeta,” 411.

⁷⁸ On quodlibetal disputations, see Schabel, ed., *Theological Quodlibeta in the Middle Ages: The Thirteenth Century*, and idem, ed., *Theological Quodlibeta in the Middle Ages: The Fourteenth Century*, Brill’s Companions to the Christian Tradition 7 (Leiden, 2007).

⁷⁹ Piron, “Franciscan Quodlibeta,” 433.

⁸⁰ Piron, “Franciscan Quodlibeta,” 416.

⁸¹ Piron, “Franciscan Quodlibeta,” 417.

⁸² Piron, “Franciscan Quodlibeta,” 435–36.

⁸³ Piron, “Franciscan Quodlibeta,” 435, 437.

⁸⁴ David Burr, “Petrus Ioannis Olivi and the Philosophers,” *Franciscan Studies* 31 (1971): 41–71, at 48; see also 50, 51, 60–66.

copied and circulated. As a counterpoint to the way in which we showed Olivi's work fully fitted into contemporary scholasticism from the intellectual and academic perspectives, those material elements will bring us closer to the texts and back to the vicissitudes of his career or, more specifically, of the circulation of his works after he died.

2. TEXTUAL INCONSISTENCIES AND VICISSITUDES

Omissions and Heterogeneity

Though not all the *Questions on the Laws of the Old Testament* fully complied with the ternary structure and regular succession of *pro* and *contra* arguments, *responsio*, and refutations of the initial objections, which provided the ordinary framework for disputed questions, the first Question did so. Following the usual pattern of three distinct classes of precepts, it was about whether the moral precepts of the Old Law possessed the full and formal rectitude of virtues.⁸⁵ After setting out fifteen objections and two positive arguments, Olivi answers that "the Old Law contains the full and formal rectitude of virtue, not in any way, but in the most suitable one,"⁸⁶ considering the people to whom it was given, the time when it was given, and God who gave it. The worship and knowledge of God had to be explained in such a literal way that they could be grasped by anyone, according to what was useful to each man. The order of divine justice required that the influx of Christ's grace and supernatural light be adapted to mankind. Therefore, the "old people," because of the common limitation in them of grace, taste, and intellectual abilities, required a suitable doctrine, conveyed in material, carnal, and terrestrial ways. It was not about blinding an uneducated people with the excessive light of explicit explanations but bringing them to believe implicitly. The refutations of the fifteen initial objections followed the *responsio*.

The second Question touched on whether ceremonial precepts had a sufficient literal reason or meaning, even though they did not signify Christ, nor did they signify his status.⁸⁷ After setting out eight positive arguments, Olivi answered that these reasons or meanings were insufficient in four respects: (1) considering the ultimate end of the Law, which implied that the imperfections opposing this end be removed; (2) considering the universal government of the divine legislator, which could not be reduced to one place and to one form of worship mainly consisting of animal sacrifices; (3) considering the course of the Old Testament as a whole, since those sacrifices predated the people's idolatry and were consequently not designed to remove it, which entailed they should have another reason, namely the foreshadowing of Christ and his grace; (4) considering the form of the ceremonial precepts, which were so inconsistent that they made it necessary to believe they had some

⁸⁵ Olivi, *Questiones de legalibus*, q. 1 ("Utrum moralia legis veteris contineant integram et formalem rectitudinem virtutum"), fols. 1ra–9va.

⁸⁶ Olivi, *Questiones de legalibus*, fol. 3ra: "Respondeo quod lex vetus continet integram et formalem rectitudinem virtutis et hoc non secundum omnem modum, sed secundum illum qui magis decuit."

⁸⁷ Olivi, *Questiones de legalibus*, fols. 9va–16ra: "Utrum cerimonialia legis habuerint rationem litteralem aut significativam sufficientem absque hoc quod significarent Christum et eius statum."

other meaning, and which should have disappeared together with idolatry. Completing the fourth point is an argument for the need to abolish the ceremonial precepts, as required by prophetic writings and right reason. The refutation of the eight initial objections followed this development.

The third Question asked whether the judicial precepts of the Law were given in a suitable way.⁸⁸ In the case, the nineteen initial objections are immediately followed by their corresponding refutations. The main solution which should have been found in between is missing. However, two of the answers to the arguments refer to what was said “in the last part of the main solution”⁸⁹ and “in the third part of the main solution.”⁹⁰ Would the copyist have omitted this *responsio principalis*? Close scrutiny reveals that the missing part is to be found in the text of the *Treatise on the Ceremonial Precepts*, in a passage explicitly dedicated to the judicial precepts, and therefore had nothing to do with its main subject.⁹¹ In this heterogeneous part of the *Treatise*, Olivi followed very closely the composition and contents of the articles which Thomas Aquinas dedicated to the reasons for the judicial precepts of the Law.⁹² The latter were divided into four categories, determining successively the relationships between rulers and subjects, then between the subjects themselves, then the relationships with foreigners, and last the domestic relationships between husbands and wives, fathers and children, and masters and slaves.⁹³

Outside the previous framework, Olivi’s fourth and last Question on the laws of the Old Testament asked in a more general way whether the Law was taught adequately.⁹⁴ A positive answer followed ten negative arguments: “It is certain that the Law was given in the most suitable form, because, even if we had not been taught so, we should believe it from the sole fact it was enacted by the supreme legislator.”⁹⁵ Another textual problem occurred here. While, in the *responsio*, Olivi announced five points in order to elaborate on “what the form of the Law should be,”⁹⁶ only three points were touched on: first, the Law should be capable of transformation and capable of leading, in order to spur to action; second, it should be exemplary

⁸⁸ Olivi, *Questiones de legalibus*, fols. 16ra–22ra: “De iudicialibus legis, an sint convenienter data.”

⁸⁹ Olivi, *Questiones de legalibus*, q. 3, ad 12, fol. 20va: “Ad duodecimum patet ex dictis in ultima parte responsionis principalis.”

⁹⁰ Olivi, *Questiones de legalibus*, q. 3, ad 14, fol. 21ra: “Ad quartum decimum patet ex dictis in tertia parte responsionis principalis.”

⁹¹ In Olivi’s text, the answer to the twelfth argument actually echoes the last part of the development on judicial precepts which can be found in the *Treatise* and deals with domestic relationships (see *Tractatus ceremonialium*, fol. 42r, on levirate marriage); similarly, the answer to the fourteenth argument refers to the third part of the same passage, about relationships between citizens and foreigners (see *Tractatus ceremonialium*, fol. 40, on the inclusion of foreigners into the community).

⁹² Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 105, a. 1 to 4.

⁹³ Olivi, *Tractatus ceremonialium*, fols. 37r–43r.

⁹⁴ Olivi, *Questiones de legalibus*, fol. 22ra–va: “Utrum lex sub ordine congruenti sit tradita.”

⁹⁵ Olivi, *Questiones de legalibus*, q. 4, *responsio*, fol. 22rb: “Quod ordinem lationis legis esse congruentissimum est certum, quia etsi non disceremus, teneremur hoc credere, ex hoc solo quod edita est a summo legis latore.”

⁹⁶ Olivi, *Questiones de legalibus*, fol. 22rb–va: “Ut ergo quod indubitabiliter credimus, intelligibiliter speculemur, attendendum quod ordo legis debuit esse: (1) immutativus ad admirandum; applicativus ad operandum; (2) exemplaris ad imitandum; radicalis ad fundandum; (3) proportionalis ad docendum et manuducendum; (4) pasqualis ad reficiendum; (5) specularis ac figuralis ad presignandum et prophetizandum.”

so as to be imitated and be radical so as to lay the foundations of the articles of faith; third, it should be proportionate, in order to teach and guide.⁹⁷ The text ended before the last two points Olivi announced, [and according to which] the Law should be invigorating in order to restore, and figurative in order to foreshadow.⁹⁸ It was unfinished, and so offered no answers to the arguments.

The *Treatise* raises textual problems as well, not only because it contains a heterogeneous development on the judicial precepts, which is in fact the *responsio* to the third question on the laws of the Old Testament, but also because it has two explicit. Both indicate the end of the treatise, while separated from each other by eighteen folios.⁹⁹ The second explicit is misleading. Under the title “Treatise on the Ceremonial Precepts,” it includes not one text but four. Only the first one actually deals with the ceremonial precepts, by explaining the reasons for sacrifices and offerings,¹⁰⁰ for the sacred places and times,¹⁰¹ for the sacraments,¹⁰² and for the observances,¹⁰³ in keeping with the general structure and contents of Aquinas’s question on the ceremonial precepts in the *Summa theologiae*.¹⁰⁴ A first explicit marks the end of this first part: *Expliciunt cerimonialia*.¹⁰⁵ The second section is about the judicial precepts. As was shown, it can be identified as the *responsio* to the third question on the laws of the Old Testament, and as was noticed, Olivi closely followed the composition and contents of the *Summa*’s articles as well.¹⁰⁶ The third section comprises nine points. These points correspond to a large extent to the answers to the arguments of the third question on the laws of the Old Testament. They successively deal with punishments,¹⁰⁷ the division of inheritance among the tribes,¹⁰⁸ the remission of the seventh and fiftieth years,¹⁰⁹ the cities of refuge,¹¹⁰ the killing of the heifer,¹¹¹ the repudiated wives,¹¹² the bastards,¹¹³ the tokens of virginity,¹¹⁴ and the stoning of adulterous women.¹¹⁵ Although the text is often more substantial and better structured, it is less extensive than the text of the question, and some of the latter’s answers to the arguments were left out.¹¹⁶ The fourth and last section is a short development regarding the “mystery of the

⁹⁷ Olivi, *Questiones de legalibus*, q. 4, fol. 22va.

⁹⁸ Ibid.

⁹⁹ Olivi, *Tractatus cerimonialium*, fols. 37r and 46r.

¹⁰⁰ Olivi, *Tractatus cerimonialium*, fols. 24v–27r.

¹⁰¹ Olivi, *Tractatus cerimonialium*, fols. 27r–29v.

¹⁰² Olivi, *Tractatus cerimonialium*, fols. 30r–34v.

¹⁰³ Olivi, *Tractatus cerimonialium*, fols. 34v–37r.

¹⁰⁴ Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 101, a. 3 to 6.

¹⁰⁵ Olivi, *Tractatus cerimonialium*, fol. 37r.

¹⁰⁶ Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 105, a. 1 to 4.

¹⁰⁷ Olivi, *Tractatus cerimonialium*, fols. 43r–44r. This point corresponds to Olivi, *Questiones de legalibus*, q. 3, ad 1, ad 4, and ad 5.

¹⁰⁸ Olivi, *Questiones de legalibus*, fol. 44r–v; cf. Olivi, *Questiones de legalibus*, q. 3, ad 8.

¹⁰⁹ Olivi, *Questiones de legalibus*, fol. 44v; cf. Olivi, *Questiones de legalibus*, q. 3, ad 9.

¹¹⁰ Olivi, *Questiones de legalibus*, fol. 44v; cf. Olivi, *Questiones de legalibus*, q. 3, ad 10.

¹¹¹ Olivi, *Questiones de legalibus*, fols. 44v–45r; cf. Olivi, *Questiones de legalibus*, q. 3, ad 11.

¹¹² Olivi, *Questiones de legalibus*, fol. 45r; cf. Olivi, *Questiones de legalibus*, q. 3, ad 12.

¹¹³ Olivi, *Questiones de legalibus*, fol. 45r; cf. Olivi, *Questiones de legalibus*, q. 3, ad 13.

¹¹⁴ Olivi, *Questiones de legalibus*, fol. 45r; cf. Olivi, *Questiones de legalibus*, q. 3, ad 18, first part.

¹¹⁵ Olivi, *Questiones de legalibus*, fol. 45v; cf. Olivi, *Questiones de legalibus*, q. 3, ad 18, second part.

¹¹⁶ The refutations to the objections 2, 3, 6, 7, 14, 15, 16, 17, and 19 of the third question are missing.

course of the Law and the Synagogue.”¹¹⁷ Here Olivi explains the spiritual meanings of the exodus and of the crossing of the desert, then turned the plagues of Egypt against the Jews, making this text significantly harsher: it was “against the harshness of the Synagogue” that Christ, “who gave the New Law,” had “produced signs and plagues,”¹¹⁸ the last of which was given this meaning: “By dying and coming back to life, Christ killed the Jews’ firstborn, that is, all the efficiency of the precepts of the Law and their spiritual primacy.”¹¹⁹ The crossing of the Red Sea signified the penitence of Christ’s followers and the drowning of those who persecuted them; it led to the “fiery law of spirit and love.”¹²⁰ When the text then states: *Explicit tractatus ceremonialium Petri Iohannis*, it is a long time since the *Treatise on the Ceremonial Precepts* itself ended.

In a nutshell, the first text, namely the *Questions on the Laws of the Old Testament*, is incomplete and unfinished. The second text, with its final *explicit* entitled *Treatise on the Ceremonial Precepts*, is in fact made up of four pieces, the first of which alone corresponds to a treatise on the ceremonial precepts. While the development on judicial precepts can be reassigned to the third Question on the laws of the Old Testament, it is difficult to account for the last two texts, namely, the partial reproduction of the answers to the arguments of the third question, and the final spiritual interpretations of the exodus. Why did Olivi’s texts on the Old Law end up in such a puzzle? Solving this question would require knowing the conditions in which they were copied and circulated. In this case we have nothing but a few material clues, which point to particular difficulties in the transmission of these texts.

THE PRESERVATION OF FORBIDDEN TEXTS

Several problems affected Olivi’s career. The charges that had been leveled against him in 1283 and had made it impossible for him ever to return to Paris were never officially dismissed. After he was reinstated in 1287, he was allowed *de facto* to circulate his works, but his career hinged on personal and institutional support. In 1299, barely one year after he died, a general chapter of the Franciscan order meeting at Lyon renewed the prohibition on reading or possessing his works.¹²¹ The following years saw the persecution of the movements which aligned themselves with him and his works, especially his doctrine on poverty and his eschatological writings, namely the “Spiritual” component of the Franciscan order,¹²² and their lay followers, the Beguins of Languedoc, who literally worshipped Olivi in the fourteenth

¹¹⁷ Olivi, *Tractatus ceremonialium*, fols. 45v–46r: “Mysterium de decursu Legis et Synagoge.”

¹¹⁸ Olivi, *Tractatus ceremonialium*, fol. 45v: “Ut virga, Christus nove legis lator contra duritiam Synagoge fecit signa et plagas.”

¹¹⁹ Olivi, *Tractatus ceremonialium*, fol. 46r: “Christo vero mortuo et resurgente, primogenita iudeorum, id est totam virtutem legalium et spiritualis primatus eorum, occidit.”

¹²⁰ Ibid.: “In mari autem rubro, id est in sensuali amaritudine penitentie et martyrii et compassivi doloris Christi, expeditur Christi sectator, et involvitur ac submergitur persecutor, ut post triumphale canticum agni pascalis et Moysi servi Dei detur ignea lex spiritus et amoris.”

¹²¹ See Sylvain Piron, “Censures et condamnation de Pierre de Jean Olivi: Enquête dans les marges du Vatican,” *Mélanges de l’École française de Rome* 118/2 (2006): 313–73, at 314–15.

¹²² See David Burr, *The Spiritual Franciscans: From Protest to Persecution in the Century after Saint Francis* (University Park, PA, 2001).

century.¹²³ The years 1317–18 marked a turning point, when the newly elected pope, John XXII, initiated a series of actions against both Franciscan Spirituals and Beguins. In May 1318, four Spirituals were tried and burned at the stake in Marseille.¹²⁴ In the same year, Olivi's grave was destroyed in the Narbonne convent. His bones were exhumed and probably thrown in the Rhône in Avignon.¹²⁵

The prohibition of Olivi's works and the persecution of his followers over the first third of the fourteenth century may help to explain the manuscript's provenance, as well as a curious indication given by the title label on its back cover. Describing the manuscript in his catalogue of the Franciscan manuscripts from the National Library of Naples,¹²⁶ Cesare Cenci asserted that the *Questions* and the *Treatise* were copied by two different hands around the mid-fifteenth century.¹²⁷ He also indicated, following Aniceto Chiappini's catalogue of the manuscripts from the libraries of the suppressed convents in the Abruzzo region, that the manuscript came from the library of the convent St. Francis of Capistrano. That the codex kept in St. Francis of Capistrano ended up in Naples is the easiest part to explain: when monastic orders were suppressed under Napoleon's rule, conventual libraries were transferred; our manuscript is part of the Abruzzo manuscripts which were then given to the library of Naples.¹²⁸ But how did the codex end up in Capistrano in the first place?

As Piron has shown, despite the renewed prohibition in 1299, Olivi's writings were still being circulated, "not in a dispersed manner, but, to a large extent, through their dissemination from organised collections."¹²⁹ His texts on the Old Law were most probably part of the library of the Narbonne convent, which some Spiritual Franciscans carried away to Italy when they fled the wave of repression of the years 1317–18,¹³⁰ and which their followers continued to take away with them during their migrations across Italy over the fourteenth century. At the end of their tribulations, a group of *fraticelli*—the followers of the Spirituals of Languedoc who had fled to Italy¹³¹—who preserved what remained of or derived from this "portable library," might have been arrested, before the mid-fifteenth century, at the instigation of an inquisitor who also confiscated their books. Knowing that the manuscript was kept at the conventual library of Capistrano before it was transferred to Naples, we may assume that this inquisitor was John

¹²³ See Jean-Louis Biget, "Culte et rayonnement de Pierre Déjean Olieu en Languedoc au début du XIVe siècle," in *Pierre de Jean Olivi (1248–1298)*, ed. Boureau and Piron, 277–308. On the persecution of Spirituals and Beguins, see Burr, *The Spiritual Franciscans*, chapters 10–11, pp. 213–59, and Louisa A. Burnham, *So Great a Light, so Great a Smoke: The Beguin Heretics of Languedoc* (Ithaca, NY, 2008), 40–50.

¹²⁴ Burnham provides a list of the "Burnings of Beguins in Languedoc and Provence" between 1318 and 1330, in *So Great a Light*, Appendix, 189–93.

¹²⁵ See Piron, "Censures," 352–53.

¹²⁶ Cesare Cenci, *Manoscritti francescani della Biblioteca Nazionale di Napoli*, 2 vols., Spicilegium Bonaventurianum 7–8 (Grottaferrata, 1971), 2:884–85.

¹²⁷ Cenci, *Manoscritti francescani*, 884.

¹²⁸ Cenci, *Manoscritti francescani*, 19.

¹²⁹ Sylvain Piron, "La bibliothèque portative des fraticelles, 1: Le manuscrit de Pesaro," *Oliviana* 5 (2016): §13, <http://journals.openedition.org/oliviana/804> (last accessed 15 March 2019).

¹³⁰ Piron, "La bibliothèque portative des fraticelles," § 1.

¹³¹ Piron, "La bibliothèque portative des fraticelles," § 4.

of Capistrano.¹³² Piron convincingly substantiated this hypothesis on the basis of two elements: first, it was not unusual for inquisitors who destroyed a nest of *fraticelli* to confiscate and keep their books, as John of Capistrano did for some manuscripts which are still preserved in his home convent, and second, the library of Bernardino of Siena (1380–1444), who was much interested in the works of the Spirituals and compiled or had compiled anthologies of Olivian writings, shows that he had access to a number of prohibited texts during the first two decades of the fifteenth century. As the vicar of the Observant friars in Tuscany and Umbria, Bernardino of Siena may have had access to the forbidden books if they had been confiscated by an inquisitor.¹³³ A similar pattern might be applied to the transmission of Olivi's texts on the Old Law, the confiscation of which might have occurred in the Marches a little later, by the mid-fifteenth century.

The title label on the back cover of the manuscript provides another clue, by reporting the book's content as follows: *Prophecia Cirilli et quoddam opus legalium et cerimonialium Petri Iohannis*. As Cenci noted, and as the observation of the manuscript confirms, the text of the "Cyril's prophecy" was torn out.¹³⁴ This torn-out prophecy was most probably the *Oraculum Cyrilli*.¹³⁵ Dating from around 1298, this widely circulated text was one of the many new Latin prophecies produced between 1295 and 1305.¹³⁶ What was its link to Olivi's *Questions* and *Treatise* which originally followed it in the manuscript? Olivi was himself quite hostile to these nonbiblical prophecies and never used them.¹³⁷ Some of those close to him did not share his reservations, however. In his *Chronicle of the Seven Tribulations of the Order of Brothers Minor*, written between 1323 and 1325, Angelo Clareno even asserted that "brother Peter of John" was the main subject of "the entire first part of Saint Cyril's prophecy" which, "partly cryptically, partly historically," foretold and determined his birthplace, the religious order he was to enter, and the persecutions he and his followers were to suffer.¹³⁸ In our manuscript, the *Oraculum* might have been accompanied by glosses conveying Angelo Clareno's interpretation. The initial presence and abrupt removal of its text are consistent with the hypothesis that

¹³² John of Capistrano (1386–1456), a Franciscan preacher, papal diplomat and crusader, promoter of the Observant movement, was appointed as inquisitor against the *fraticelli* in Italy by Pope Martin V, first in 1418 against the faction of the *fraticelli* called *de opinione*, then in 1426–27 against the *fraticelli* in Italy; see Gedeon Gál, Jason M. Miskuly, and Ottokar Bonmann, "A Provisional Calendar of St. John Capistran's Correspondence," *Franciscan Studies* 49 (1989): 255–345, at 265, 267.

¹³³ Sylvain Piron, "The Dissemination of Barthélemy Sicard's *Postilla super Danielelem*," in *Late Medieval Heresy: New Perspectives. Studies in Honor of Robert E. Lerner*, ed. Michael D. Bailey and Sean L. Field, Heresy and Inquisition in the Middle Ages 5 (Woodbridge, UK, 2018), 35–55, at 52.

¹³⁴ Cenci, *Manoscritti francescani*, 884.

¹³⁵ The text was edited by Paul Piur in *Briefwechsel des Cola di Rienzo*, 4 vols. (Berlin, 1912), 2:251–327.

¹³⁶ See Sylvain Piron, "Anciennes sibylles et nouveaux oracles: Remarques sur la diffusion des textes prophétiques en Occident, VIIe–XIVe siècles," in *L'Antiquité tardive dans les collections médiévales: Textes et représentations, VIe–XIVe siècle*, ed. Stéphane Gioanni and Benoît Grévin, Collection de l'École française de Rome 405 (Rome, 2008), 261–304, at 262, 293.

¹³⁷ Piron, "Anciennes sibylles," 293.

¹³⁸ Angelo Clareno, *Historia septem tribulationum ordinis minorum, Liber sextus, quinta tribulatio*, ed. Orietta Rossini, *Rerum Italicarum Scriptores* 2 (Rome, 1999), 195–96, and see Piron, "Anciennes sibylles," 293 and n. 99.

the copyist belonged to a group of *fraticelli*, which in turn increases the likeliness of its removal at the instigation of John of Capistrano.

To sum up, Olivi's texts on the Old Law were possibly copied by *fraticelli* in Italy, before the mid-fifteenth century, on the basis of a text which probably came from the library of the Narbonne convent. The manuscript might have been confiscated in an operation against the *fraticelli* led by John of Capistrano. The inquisitor might have had the *Oraculum Cyrilli* torn out, and the mutilated manuscript sent to the library of his home convent. Confiscated from the *fraticelli* and stripped from its non-Olivian part, the manuscript, which still contained the *Questions on the Laws of the Old Testament* and the so-called *Treatise on the Ceremonial Precepts*, was apparently deemed worthy to be preserved in Capistrano, and it ended up in Naples in the nineteenth century.

Finally, the inconsistencies in the composition of Olivi's texts as they appear in the manuscript, as well as the material clues pointing to the difficult conditions in which they were copied and circulated, are all very suggestive. These material features of Olivi's texts can be traced back to the prohibitions of his works and to the uses that the Spirituals of Languedoc, and then the *fraticelli* in Italy, made of these forbidden works after his life, although Olivi himself never claimed to be a prophet and always maintained the principle of obedience to the pope and of the unity of his order.¹³⁹

An additional explanation may account for the odd composition of the manuscript. Although the four texts of the so-called *Treatise on the Ceremonial Precepts* follow the *Questions on the Laws of the Old Testament* in the manuscript, they might have been put together as a dossier that Olivi made up before writing his *Questions*, and as a preparatory step to their writing. The links between two of the texts from this dossier and the third Question substantiate this hypothesis. The answers to the arguments of the third Question, in particular, seem to complete the elements provided by the dossier, where they are more precise and less developed. The dossier might also be what is left of a lost treatise.¹⁴⁰ At the beginning of his commentary on Job, Olivi referred to a *Tractatus de distinctione Veteris Testamenti a Novo*,¹⁴¹ which could correspond either to the *Questions on the Laws of the Old Testament*, notwithstanding their genre, or to a lost treatise. Lastly, the four texts of the dossier might have been put together for another, more extensive treatise, which Olivi never wrote. In his *Apocalypse Commentary*, he expressed the need for a "more extensive treatise,"¹⁴² which suggests that it remained only a project,¹⁴³ the preparatory elements of which might be found in the second part of our manuscript.

¹³⁹ As Catherine König-Pralong has pointed out, both his accusers and censors, as well as his supporters and devotees, made him a dissident, in *Le bon usage des savoirs*, 216.

¹⁴⁰ Sylvain Piron, "Les œuvres perdues d'Olivi: Essai de reconstitution," *Archivum Franciscanum Historicum* 91 (1998): 357–94, at 390–93.

¹⁴¹ Peter of John Olivi, *Postilla super Iob*, 1.2, ed. Alain Boureau CCCM 275 (Turnhout, 2015), 11.

¹⁴² Peter of John Olivi, *Lectura super Apocalypsim*, ed. Warren Lewis (New York, 2015), 46: "Quomodo autem hec ex prophetis probentur, prolixiorem tractatum exigit et de hoc in pluribus plura tetigi."

¹⁴³ Piron, "Les œuvres perdues d'Olivi," 393, and idem, "Chronologie des écrits."

These additional hypotheses are far from solving all the difficulties. Why, for instance, did the second scribe copy the partial answers to the arguments of the third Question, although they had already been copied in full, and in a more elaborate form, in the first part of the manuscript? Why did he not only put the four texts under the misleading title of *Treatise on the Ceremonial Precepts* but also blur their distinctions by giving them a visual, formal unity, as if he had ignored or failed to perceive their heterogeneousness?

Besides these material features, the local context in which these texts were written surely constitute another of their distinctive characteristics. Languedoc offered a cultural setting quite different from Paris, where the Latin translation of the *Guide of the Perplexed* circulated from 1225/1230, four decades before Olivi arrived there to follow the Franciscan lectorate program.

3. WRITING ABOUT THE OLD LAW IN LANGUEDOC

A Perfect Adaptation to Jewish Imperfections

The general perspective of the fulfillment of the Old Law by Christianity entailed the need to define its status. Considered in the framework of the history of salvation, the Old Law was deemed sufficient, adequate, and perfect in its own time. As Olivi's first Question reads, the Law was "doctrinally perfect to the core, in such a way that it was, nevertheless, superficially and in many ways imperfect."¹⁴⁴ It was imperfect, indeed, since it was, as is so often said in the text of the *Questions*, a law of "servile fear,"¹⁴⁵ "unable to give full freedom,"¹⁴⁶ a "material,"¹⁴⁷ "irrational and useless" law,¹⁴⁸ which was "difficult and heavy," and amounted to an "unbearable burden which threatens weak men with ruin by the addition of excessive orders of observances which are useless in themselves, according to Peter in Acts 15:¹⁴⁹ *a yoke . . . which neither our fathers nor we have been able to bear.*"¹⁵⁰

On these grounds the theologian strove to overcome the contradiction between the apparent irrationality and uselessness of the Law and the fact that it was God-given. He did this in two main ways. First, he justified the general function of the Old Law, which was designed to foreshadow, signify, and prepare the coming of Christ and his grace: "And if you say: 'How come [that the precepts] were given by God?,' it will be answered: from the very fact they prefigured the grace of Christ, the freedom and the perfect law he was himself to give, and because they compelled to acknowledge the

¹⁴⁴ Olivi, *Questiones de legalibus*, q. 1, *responsio*, 1°, fol. 3rb: "Sic debuit medullariter <vel> sententialiter esse perfecta, ut nihilominus esset superficialiter vel multiformiter imperfecta."

¹⁴⁵ Olivi, *Questiones de legalibus*, q. 1, arg. 9, fol. 2ra.

¹⁴⁶ Olivi, *Questiones de legalibus*, q. 3, *responsio*, fol. 42r.

¹⁴⁷ Olivi, *Questiones de legalibus*, q. 1, *responsio*, fols. 3va, 3vb, 6ra, 6va, etc.

¹⁴⁸ The ceremonial precepts were said to be "by their very nature, largely irrational and useless" ["de ceremonialibus multam ex sua natura irrationabilitatem et inutilitatem habentibus"] in Olivi, *Questiones de legalibus*, q. 2, *responsio*, 1°, fol. 10vb.

¹⁴⁹ Acts 15.10.

¹⁵⁰ Olivi, *Questiones de legalibus*, q. 2, *responsio*, 1°, fols. 10vb–11ra.

illness and to search for a doctor.”¹⁵¹ This was in keeping with the general approach of Christian exegesis in terms of prefiguration. Olivi emphasized that the Old Law pointed to the New Law in a particular way, by veiling, hiding or closing its meaning, for the Jews were not ready to understand it, and God wished it to be concealed at that time.¹⁵² Moreover, the theologian showed that some apparently vain and ridiculous precepts were not devoid of reason. Here he carried out a focused exegetical approach, in order to put forward the consistency and appropriateness of the precepts in their own time and for their particular audience. Olivi showed that the “material and particular” precepts he expounded in the last argument of the first Question in fact corresponded to “cases which were likely to occur more frequently according to the common course of things,” and that their formal reasons could be easily perceived.¹⁵³ For instance, the precept from Deuteronomy 24.6, “Thou shalt not take the nether, nor the upper millstone to pledge, for he hath pledged his life to thee,” could be explained as follows: “It is because a creditor is more prone to taking as a pledge what the poor mostly need, and the removal of which will harm them more, that this is more especially forbidden to creditors. One could easily infer from this that the interdiction in fact targeted harmful breaches of one’s duty to another.”¹⁵⁴

These two approaches, aimed at accounting for the apparent imperfection of the God-given Law, were summarized in the initial considerations of the *Treatise on the Ceremonial Precepts*, where Olivi mainly dealt with the Old Law as a whole.¹⁵⁵ The theologian asserted there that although the prefiguration of Christ was the main reason for the ceremonial precepts, some tangible and superficial reasons should also be taken into account, for they bore witness to the adaptation

¹⁵¹ Olivi, *Questiones de legalibus*, q. 2, ad 1, fol. 13vb: “Et si dicas : *Quomodo ergo fuerunt data a Deo?*, respondetur quod eo ipso erant prefigurativa gratie Christi et libertatis et perfecte legis per ipsum dande, et quia per hoc compellebatur morbum recognoscere et medicum querere.”

¹⁵² Olivi, *Questiones de legalibus*, q. 2, ad 5, fol. 15va. The motif of the veiling of scriptures was dealt with extensively in the *principium Cum essem*, in *Peter of John Olivi on the Bible*, ed. Flood and Gál, 100–8.

¹⁵³ Olivi, *Questiones de legalibus*, q. 1, ad 15, fol. 9ra–rb: “Ad ultimam vero rationem in qua per multa exempla probatur legem sepe materialia et particularia precipere, formalibus neglectis, dicendum quod hoc rationabiliter facit . . . quia expediebat eis determinari casus qui secundum communem cursum frequentius contingere habent, et ex quibus de facili possent percipere formalem [9rb] rationem illorum casuum, prout patet in exemplis ibidem datis.”

¹⁵⁴ Olivi, *Questiones de legalibus*, fol. 9rb: “In primo enim quod illud quod magis est necessarium pauperi et de cuius absentia plus gravatur creditor pro pignore libentius tollit, et ideo specialius hoc creditoribus prohibetur, facileque fuit ex hoc colligere quod impietatem nocivam hic realiter prohibere intendit.”

¹⁵⁵ In the text of the *Treatise*, allegorical interpretations occasionally include considerations on the Law as a whole. For instance, sacrificed animals had to be skinned, “for the rejection of the skin signified the stripping of the old man, of a hypocritical life, and of the skin of the letter, that is, of carnal understanding, and also the abolition of the ceremonial precepts in the days of Christ” (*Tractatus ceremonialium*, fol. 25v); the rejection of the offering of honey “also expressed this mystery, that the honey of terrestrial promises, benefits, and carnal decrees of the Old Law, and the oldness of its ceremonial precepts, should be ruled out by Christ’s sacrifice and the New Law” (ibid., fol. 27r); circumcision foretold “that Christ was to remove the skin of the laws of the Old Testament” (ibid., fol. 30r); some other examples can be found in fols. 27r (on the special consecration of the temple and tabernacle to divine worship), 33v (on the hair of the Nazarites) or 35v (on the fruits of the promised land).

of these precepts to a people and a time. Furthermore, they contributed to “amplify the consonance of divine harmony” and to veil what should still remain hidden.¹⁵⁶ After these opening remarks, the text mainly explained what was foreshadowed. The literal meaning was not suppressed by the spiritual one. The former gave way to the latter while preserving its own value.

It happens very seldom in Olivi’s writings that the literal sense was not maintained, as exemplified in a passage of the *Questions* where Olivi, addressing the judicial precepts, dealt with the tokens of virginity: “The tangible vileness involved in the keeping, exhibiting, and inspecting of those tokens makes it necessary to understand it in another way, according to a spiritual meaning. Hence, this is a sheer allegory. Because the church of the gentiles, which was like a virgin because it was taught the pure and full faith by Paul and Barnabas, was accused by the zealous supporters of Judaism of corrupting the virginal faith because it did not comply with the precepts of the Law,¹⁵⁷ the tokens of the virginity of the converted gentiles’ faith and life having been exhibited by Paul before the apostles and the ancients, a sentence of the apostolic council forced them to keep it, Acts 15.”¹⁵⁸

The literal sense could sometimes be deemed insufficient without being so completely rejected as was done previously. In the section of the *Treatise* about the observances of the Law, after setting out the literal reasons for the dietary laws from chapter 11 of Leviticus which made it necessary to distinguish between pure and impure animals, Olivi asserted: “No literal reason can be sufficient here, for God was never compelled to go into such details for the mere sake of the body’s health, in a law so solemnly given.”¹⁵⁹ That is why there should be a spiritual reason why some animals were prohibited and others allowed. Indeed, the former represented “the impurity of vices”; the latter “the saintly and pure men” who were capable of discretion.¹⁶⁰

¹⁵⁶ Olivi, *Tractatus ceremonialium*, fol. 24r: “Ad videndum autem ceremonialium rationes est primo sciendum quod, quamvis significativus ordo ipsorum in Christum sit eorum ratio principalis, nihilominus etiam locum habent alie, tam respectu illius temporis quam per respectum ad Christum. Respectu quidem illius temporis, quia decuit quod aliquas sensibiliores utilitates et congruentias populus sui temporis haberet. Sicut enim exterior pictura et ornatus templi vel arche non derogat eorum ornatui interiori, sic utilitas et congruentia superficialium rationum non derogat intrinsecis et profundioribus, immo confert ad divine harmonie consonantiam ampliorem.”

¹⁵⁷ Acts 15.1: “And some coming down from Judea, taught the brethren: That except you be circumcised after the manner of Moses, you cannot be saved,” and 15.5: “But there arose some of the sect of the Pharisees that believed, saying: They must be circumcised, and be commanded to observe the law of Moses.”

¹⁵⁸ Olivi, *Questiones de legalibus*, q. 3, ad 18, fol. 21va–vb: “Quia vero sensualis vilitas conservationis ac ostensionis et inspectionis predictorum signorum compellit hic aliud mysticum intelligi, ideo hic est pura allegoria. Quod ecclesia de gentibus per puram et integram fidem virgo per Paulum et Barnabam traditam zelatoribus iudaismi, quia non servabat legalia de virginalis corruptione fidei accusata ab eis, ostensis per Paulum signis virginalis fidei et vite gentium conversarum coram apostolis et senioribus, compulsi sunt eam retinere per sententiam apostolici consilii, Act. 15°, datam.”

¹⁵⁹ Olivi, *Tractatus ceremonialium*, fol. 34v: “Nulla ratio litteralis hic sufficit, quia pro sola corporis sanitate nequaquam debuit Deus in lege tam sollempniter data de talibus minutiis se intrmittere.”

¹⁶⁰ Ibid.: “Idcirco preter has rationes superius tactas pueriles et sensuales est ratio mystica, ut prohibita quasi immunda vitiorum immundities designarent. Et per concessa, viros sanctos et mundos ostenderet, nam qui non discernunt nec sciunt discernere bona animalia et meliora a minus bonis, non findunt unguulam tamquam indiscreti.”

More generally, literal and spiritual reasons were hierarchically organized, so that the former were not rejected, nor were they even deemed insufficient. To take one example from the *Treatise*, Olivi explained sacrifices and offerings by a series of seven reasons, the last of which he explicitly called “mystical.” Among other reasons, sacrifices aimed at acknowledging divine power, at giving God everything one had, or at asserting that sins subjected men to an eternal death. What Olivi presented as “the most important” reason—that is, as he put it, the “mystical reason in Christ”¹⁶¹—was that the sacrifices and offerings of the Old Law signified Christ’s sacrifice, which was to redeem and sanctify the whole people of God, and also that “he was to be put to death by the Jews and their priests,” the multiplicity of sacrifices representing that of his torments.¹⁶²

Jews were thus targeted at every stage of the process of Christian appropriation of the Law. The latter was “material” and “childish” because it had to be taught to a “childish,” “simple,” and “uneducated people.” As “uneducated” or “simple,” Jews were associated to what was “terrestrial,” “material,” “carnal,” and “sensual” to the extent that they only perceived and conceived things by means of sensory perception, and that their intellectual vision, taste, and understanding were deemed quite limited: “A thick and rough light [*lumen grossa et rudis*] suits a cloudy vision, just as food and savor must be appropriate for a weak palate. Hence, the old people, because of the common limitation of its grace, taste, intellectual brightness, and glow, required a suitable and appropriate law and doctrine.”¹⁶³ The motif of “childishness” mainly derived from Paul’s image of the Law as a pedagogue (Gal. 3.24–25).¹⁶⁴ Olivi most often drew a parallel between Jews and children who had to be taught rudiments. By ordering material and particular rules, the Law showed it had

been given to an uneducated and material people, who, like a child, needed childish teaching and doctrine, and who could not grasp the complete and formal reasons of virtues, nor could they grasp all the perfections suited to perfect people; according to which,

¹⁶¹ Olivi, *Tractatus cerimonialium*, fol. 24v, rubric “Ratio mystica in Christum.”

¹⁶² Ibid.: “Septima est omnium principalis, scilicet sacrificii redemptoris omnium iustificantis fidelis professio et figuralis oblatio. Oportuit enim profiteri quod uno Dei incarnandi sacrificio erat totus Dei populus redimendus et sanctificandus, et quod in hoc consumabatur totus Dei cultus. Figurabatur etiam in hoc quod a iudeis et ab eorum sacerdotibus erat morti dandus. Multitudo etiam sacrificiorum erat figura martyriorum suorum.”

¹⁶³ Olivi, *Questiones de legalibus*, q. 1, *responsio*, fol. 3va–vb: “Grosso autem et caliginoso visus expedit lumen grossa et rudis, et infirmo seu tepido gustui expedit cibus et sapor sibi proportionabilis. Idcirco veteri populo, propter communem artationem gratie et saporis et intellectualis radii et splendoris, necessaria fuit lex et doctrina sibi conformis et proportionalis.” These metaphors of sight and taste can also be found in the *principium Cum essem*, in the tenth of the twelve general reasons by which Olivi accounted for the utility of the veiling of scripture (“The reasons why Scripture was formed and taught under the veils of images are multiple,” in *Peter of John Olivi on the Bible*, ed. Flood and Gál, 100): “It is not useful that the truth of divine things be openly taught to imperfect people. Just as the sun blinds weak eyes, though it pleases and strengthens vigorous ones, so the glory of divine majesty oppresses the curious and imperfect people who scrutinise it. Indeed, solid food is for perfect people only,” etc. (ibid., 103). It must be noted that this reason applied, in the *principium*, to the “ill-willed” and “envious” people; the veiling of scripture was to avoid any exposure to irreverence.

¹⁶⁴ “Lex paedagogus noster fuit in Christo, ut ex fide iustificemur. At ubi venit fides, jam non sumus sub paedagogo”; see Elsa Marmursztejn, “The Old Law, the New Law, and Christian Norms in Thirteenth-Century Scholastic Theology,” *Revue de l’Histoire des Religions* 228/4 (2011): 1–31, at 10–15.

a young child is first taught one letter at a time, then words and then expressions, and in the latter, first the words and then the figures. And particular things are expressed first, before these particular things lead him to infer and grasp the universal, in such a way that, just as it takes him long to rise painfully from tangible things to intellectual ones, he can hardly penetrate the hidden causes from external effects and signs.¹⁶⁵

The wording of the deficiencies attributed to the Jews was not specific to Olivi, nor was it particularly connected to his time. It came or derived from the Bible itself. As Marcel Simon showed in his classic, *Verus Israel: Étude sur les relations entre chrétiens et juifs dans l'Empire romain*, Christian anti-Judaism was originally conveyed through hostile expressions based on the Hebrew Bible.¹⁶⁶ In turn, these hostile expressions were applied to scriptures. As shown, the Law's imperfections were attributed to the Jews' inabilities and weaknesses. To a large extent, the characters attributed to the Jews also served to characterize the Law. In this connection, the ceremonial precepts were deemed "vile, material, useless, more childish than rational in themselves."¹⁶⁷ Some of the judicial precepts were seen as concessions that "the Jewish proneness to greed"¹⁶⁸ or "the hardness of a carnal people, prone to revenge"¹⁶⁹ made necessary. These elements have a particular ring and pertained more specifically to medieval expressions of anti-Judaism. However, Olivi seldom used such wordings in his texts on the Law.

The Jews' "bestiality" is nevertheless mentioned twice, in conjunction with their tendency to idolatry,¹⁷⁰ the latter being frequently mentioned. When setting out the reason why "the faith of Christ did not have to be fully explained," Olivi said that "in the same way as an excessive light is tiring and blinding for a weak eye, though it enlightens and pleases a healthy and strong one, the prolix explanation

¹⁶⁵ Olivi, *Questiones de legalibus*, q. 1, ad 15, fol. 9ra: "In hoc ipso innuit se datam populo rudi et materiali et quasi puero puerili disciplina et doctrina egenti qui totales et formales rationes virtutum et omnium perfectionum perfectis competentium capere non posset; iuxta quod infantulus primo docetur unaquamque litteram sigillatim ac deinde sillabas, et postmodum dictiones et tandem orationes, et in hiis primo solas voces et deinde figurationes. Primo etiam exprimuntur particularia antequam ex particularibus exprimentis inducat et recolligat universale, sic etiam ex sensibilibus ad intellectualia vix post longum tempus adsurgit, sic ab effectibus et signis extra patentibus vix intratur ad causas eorum occultas."

¹⁶⁶ See Simon, *Verus Israel*, 253–55.

¹⁶⁷ Olivi, *Questiones de legalibus*, q. 2, *responsio*, 4°, fol. 11vb: "cum ex se sint summe vilia et materialia et inutilia et potius infantilia quam rationabilia."

¹⁶⁸ Olivi, *Questiones de legalibus*, q. 3, *responsio*, fol. 40r: "Respectu tamen alienigenis, permisit mutuum ad usuram, tum ut saltem ob hanc permissionem omnino vitarent respectu suorum, tum ut ad ipsosmet extraneos saltem propter lucrum magis essent pacifici, tum propter pronitatem iudeorum ad avaritiam." Cf. Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 105, a. 3, ad 3: "Accipere usuras ab alienis non erat secundum intentionem legis, sed ex quadam permissione, propter pronitatem iudeorum ad avaritiam; et ut magis pacifice se haberent ad extraneos, a quibus lucrabantur."

¹⁶⁹ Olivi, *Questiones de legalibus*, q. 3, ad 10, fol. 20rb, about the permission to kill one's kinsman murderer: "Quia vero conceditur homicidam a propinquo occidi, fiebat ob duritiam carnalis populi ad vindictam proni et nisi sic permetteretur in peiora lapsuri."

¹⁷⁰ Olivi, *Questiones de legalibus*, q. 2, ad 2, 4°, fol. 14va: "Ad illud ergo Ezechielis 20° dicendum quod ibi intendit dicere quod propter bestialitatem illius populi, in pronitate et sequela idolatrie eius in Egypto et post nimium patentem, dedit eis precepta non bona, id est de se et secundum se et secundum suam naturam tamquam eorum bestialitati competentia et eorum mortiferas iniquitates non tollentia, sed solum ostendentia."

and exposure of our faith would blind uneducated and simple people;¹⁷¹ that is why they need to be taken to it like cattle and beasts of burden, and be brought to believe implicitly.”¹⁷² In the same way, when Olivi explained why the true, spiritual meaning had to be concealed from them, he wrote that if such “a material people heard that God was three and one, that the son of God had to become a man, that he was to redeem us by his death, and other such intellectual things, either they would not understand them, or they would despise them, or they would conceive a plurality of gods and a man-god as idolatrous people or pigs do.”¹⁷³

Therefore, when conveying his message to his people, God had to adapt it and keep it veiled, as was made clear through the example of the “messenger who is entrusted with a letter containing arduous and very secret things, or a very secret and precious treasure, and about which it would be feared the messenger could steal it if he knew about it. It is therefore sufficient that he be made to swear and promise, and that he be ordered to take it cautiously and carefully to such place and such house.”¹⁷⁴ Although the veiling of scripture should have spurred the Jews to seek the truth, and to call “for the coming of another, more perfect law,”¹⁷⁵ which would expel the childishness,¹⁷⁶ they were unable to grasp that the Law pointed out to something else, nor were they able to perform the “hermeneutical leap”¹⁷⁷ by means of which they could have reached its spiritual meaning. The tension between God’s intention to veil the truth and the Jews’ inability to understand this truth permeates Olivi’s text.

Another kind of tension characterized the conception of the relationships between the two Laws. The doctrine of prefiguration and the rationalization of precepts made it clear that it was not about breaking the bond between the Old Law and the New but, quite on the contrary, about defining an organic bond between the two, as evidenced by the recurrent analogies fashioned from nature. Thus, “the New Law and the Old one do not differ simply in type, nor are they two totally different laws; quite on the contrary, in the same way as the fruit and the branches of a tree constitute a

¹⁷¹ Cf. Olivi, *principium Cum essem*, in *Peter of John Olivi on the Bible*, ed. Flood and Gál, 103.

¹⁷² Olivi, *Questiones de legalibus*, q. 1, ad 5, fol. 5rb: “Sicut lux nimia oculum infirmum gravat et excecatur, quamvis sanum et fortem clarificet et delectet, sic multa et propria explicatio et denudatio nostre fidei rudes et simplices excecarent, et ideo expedit eos duci sicut pecora et iumenta et quod credant illa implicate.”

¹⁷³ Olivi, *Questiones de legalibus*, q. 2, ad 5, fol. 15va: “Materialis populus, si audisset Deum esse trinum et unum, et Dei filium esse humanandum nosque sua morte redempturum, et sic de aliis intellectualibus, aut non intellexisset aut contempsisset aut concepisset ex hoc pluralitatem deorum et hominem Deum quasi more idolatrarum aut more porcorum.”

¹⁷⁴ Olivi, *Questiones de legalibus*, q. 2, ad 5, fol. 15rb: “Quod autem principale non supersit explicite revelandum patet in nuntio cui committitur littera ardua et secretissima continens vel thesaurus secretissimus et karissimus, de quo timetur quod si nuntius sciret, furaretur ipsum. Unde sufficit quod sub grandi coniuratione et promissione sibi indicetur, quod caute et sollicitè portet illa ad talem locum et domum.”

¹⁷⁵ Olivi, *principium Cum essem*, in *Peter of John Olivi on the Bible*, ed. Flood and Gál, 104.

¹⁷⁶ Olivi, *Questiones de legalibus*, q. 2, ad 2, 4, fol. 14rb: “ut . . . clamarent aliam legem perfectionem et huius puerilia effugantem potius esse venturam.”

¹⁷⁷ The “hermeneutical leap” [“saut herméneutique”], meaning the transition between the literal sense and the spiritual one, was worded by Gilbert Dahan, *L’Exégèse chrétienne de la Bible en Occident médiéval, XIIe–XIVe siècle* (Paris, 1999), 435–44. See also Dahan, *Lire la Bible*.

whole and perfect tree along with its roots, so the New Law is contained in the Old one like a chick in an egg.”¹⁷⁸ If the Old Law were

understood as the sole letter of the Law or as its sole literal meaning, and the New one as grace, the whole of the New Testament differs from the Old one as written law differs from grace, the letter from the spirit, and the obligation or implication from the utility and explication. But if the status of the Old Testament and that of the New one are compared as a whole, they then differ like the chicken and the egg, like the tree and the seed from which it came,¹⁷⁹ and they thus differ as that which is implicit, imperfect, and material, differs from that which is explicit, perfect, and fully formed.¹⁸⁰

And that is why, “in the same way as it is not suitable for the root to have in itself the full development of the branches and fruits which would grow from it, the Old Law should not contain the developments which were to be made by Christ and his law, nor the ones which were especially to be left to the doctors and commentators of the Law, as well as to the people’s judges, to be later explained.”¹⁸¹

However, the organic bond between the two laws did not preclude what Olivi presented as a clear progression “from temporal things to eternal ones, from corporeal things to spiritual ones, from fear to love, from serfdom to freedom, from justice and rigor, to grace and compassion, from marriage and wealth to virginity and poverty, from bodily wars to patience and to the fight of virtues against vices, from civil affairs to divine ones, and from childish things pertaining to the education of children to intellectual and perfect ones.”¹⁸² Other representations of the passage from darkness into light, from carnal understanding to spiritual wisdom, from imperfection to perfection,¹⁸³ also contributed to the elaboration of the inferiority of the Old Law. Its very materiality, childishness, and inconsistencies, called for its transformation: “The whole materiality of the precepts of the Laws, ill suited to the status of perfect wisdom and perfect justice and incompatible with its clarification, signified and foretold its transformation into incomparably higher and

¹⁷⁸ Olivi, *Questiones de legalibus*, q. 1, ad 9, fol. 6rb: “lex nova et vetus non differunt simpliciter specie nec sunt totaliter due leges, immo sicut fructus et rami arboris constituunt unam integram et perfectam arborem cum radice, sic lex nova continetur in Veteri sicut pullus in ovo.”

¹⁷⁹ Cf. Olivi, *principium Cum essem*, 135.

¹⁸⁰ Olivi, *Questiones de legalibus*, q. 1, ad 9, fol. 6va: “Si ergo per legem veterem sumatur sola littera legis vel sola litteralis intelligentia eius, et per novam intelligatur gratia, totum Novum Testamentum distinguitur a Veteri sicut lex scripta et gratia, et sicut littera et spiritus, et sicut obligatio vel implicatio et expeditio et explicatio. Si vero totus status Veteris Testamenti comparetur ad totum statum Novi, tunc differunt sicut pullus et ovum, sicut arbor a semine de quo erumpit, et secundum hoc differunt sicut implicitum et imperfectum et materiale differunt ab explicito et perfecto et plene formato”; cf. Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 107, a. 3, especially the *responsio*.

¹⁸¹ Olivi, *Questiones de legalibus*, q. 1, *responsio*, fol. 3ra–rb: “Sicut enim non decet radicem habere in se totam explicationem ramorum et fructuum ex ipsa propagandorum, sic nec lex vetus debuit habere explicationes per Christum et eius legem fiendas, nec etiam illas que legum doctoribus et expositoribus ac etiam populi iudicibus erant specialiter relinquende ac per consequens explicande.”

¹⁸² Olivi, *Questiones de legalibus*, q. 1, *responsio*, fols. 3vb–4ra: “Transitus a veteri lege ad novam est et a temporalibus ad eterna, et a corporalibus ad spiritualia, a timore ad amorem, a servitute ad libertatem, a iustitia et severitate ad gratiam et pietatem, a coniugio et divitiis ad virginitatem et paupertatem, a corporalibus bellis ad patientiam et pugnam virtutum contra vitia, a civilibus et secularibus ad regularia et divina, et a puerilibus et pedagogicis ad sapientialia et perfecta.”

¹⁸³ Olivi, *Questiones de legalibus*, q. 2, *responsio*, 2°, fol. 11ra–rb ; 5°, fol. 12vb.

more perfect laws and graces.”¹⁸⁴ Furthermore, the Law called for its own mutation: “The very materiality of the Law demanded to be abolished through the status of Christ and to be transformed into something better.”¹⁸⁵

That is to say that the Old Law had neither meaning nor usefulness apart from the Christian interpretation of it. The precepts which fulfilled the useful function “of reminding and signifying,” remained “not because of the power of the Old Law . . . but only because of the power of Christ’s law and natural law.”¹⁸⁶ By associating Jews with sensory perception, childishness, or even animality, the theologian conflated Christian reading of the scriptures and rational understandings.¹⁸⁷ The intellectual process that gave the Old Law its meaning included the critique of all the Law’s purported deficiencies. The form of the scholastic question enabled the theologian to enumerate the weaknesses and absurdities of the Law through arguments which were generally rejected, then to appropriate the Law by forcing into it the meaning drawn from Christian interpretation. Dialectics made it possible to assimilate the Law and transcend it.

“HERMENEUTICAL JEWS,” REAL JEWS OF LANGUEDOC, AND MAIMONIDES

Who were the Jews Olivi was talking about? The imperfections were almost invariably attributed to the “ancient people” [*populus vetus*], the “people of the Old Testament” [*populus Veteris Testamenti*], or the “people of the Law” [*populus legalis*]. Did this *populus* refer only to a figure, shaped from Christian readings of the Bible, the transmission of stereotypes from patristic literature, and medieval theological discussions? Although what applied to the Jews most often applied to the Law and vice versa, it is difficult to maintain that what was at stake had nothing to do with real Jews, especially in Languedoc.¹⁸⁸ Major cultural developments occurred there over the course of the twelfth century,¹⁸⁹ in the wake of the Almohad conquest (1148) and the subsequent “destruction of Jewish public life in Muslim Spain.”¹⁹⁰ The founders of the two famous dynasties of scholars—the Tibbonides in Lunel

¹⁸⁴ Olivi, *Questiones de legalibus*, q. 2, *responsio*, 1°, fol. 10va: “Tota materialitas legalium, statui perfecte sapientie et iustitie incompetens et cum ipsius clarificatione impossibilis, significabat et prophetabat sui ipsius commutationem in leges et gratias incomparabiliter altiores et perfectiores.”

¹⁸⁵ Olivi, *Questiones de legalibus*, q. 1, ad 7, fol. 6ra (about polygamy): “Plures vero uxores concessit . . . tum ut in hoc ipso ipsa legis materialitas clamaret se per Christi statum evacuandam et in melius commutandam.”

¹⁸⁶ Olivi, *Questiones de legalibus*, q. 3, ad 15, fol. 21a (regarding judicial precepts): “Ad rememorandum vero et significandum, semper expediunt nobis et sic semper manent. Quedam tamen sunt in eis moralia vel semper expedientia, ut est ordo superiorum iudicum et inferiorum et illa simpliciter manent, sed non ex vi veteris legis in quantum fuit Christi precursiva, set solum ex vi legis Christi et legis naturalis.”

¹⁸⁷ On the “Christianization of Reason,” see Anna Sapir Abulafia, *Christians and Jews in the Twelfth-Century Renaissance* (New York, 1995; repr. 2014), 34–47.

¹⁸⁸ See Maurice Kriegel, *Les Juifs dans l’Europe méditerranéenne à la fin du Moyen Âge* (Paris 1979, new edition 2006), 145–70, and Michaël Iancu, *Les Juifs de Montpellier et des terres d’Oc: Figures médiévales, modernes et contemporaines* (Paris, 2014).

¹⁸⁹ Ram Ben-Shalom, “Southern France,” in *The Cambridge History of Judaism*, vol. 6, *The Middle Ages: The Christian World*, ed. Robert Chazan (Cambridge, UK, 2018), 185–212, at 205.

¹⁹⁰ Ben-Shalom, “Southern France,” 189.

and then Montpellier, and the Kimhi in Narbonne—had fled the Almohad persecutions and settled in Languedoc. The translation of philosophical and scientific Greek-Arabic works which they undertook resulted from the convergence between these Arabic-speaking refugees and local patron-scholars.¹⁹¹

Judah ibn Tibbon, who fled Granada and settled in Lunel as a physician around the middle of the twelfth century, translated some major works from the Jewish-Arabic literature until the end of his life, in 1190. According to Gad Freudenthal, interest in philosophical works was “an unintentional effect from the wish to know the Jewish religious thought which was written in Arabic,” and from the difficulties it raised.¹⁹² Judah’s son, Samuel ibn Tibbon (1165–c. 1232), translated Maimonides’s *Guide of the Perplexed* from Arabic into Hebrew in 1204, at the request of the scholars of Lunel, as evidenced by a letter written by Jonathan ha-Kohen to Maimonides himself.¹⁹³ The translation of the *Guide* met with immediate success among the Jews of Languedoc. Samuel ibn Tibbon’s son-in-law, Jacob Anatoli (c. 1194–c. 1256), might have translated the *Guide* into Latin, in collaboration with the Christian scholar Michel Scot, when both were at the court of Emperor Frederick II in the early 1230s. The *Guide* may also have been translated in southern France.¹⁹⁴ Furthermore, the city of Montpellier, where the Tibbonides settled in the early thirteenth century, and the influence of which went far beyond Languedoc, was the epicenter of the two Maimonidean controversies, developed between 1230 and 1235 around the orthodoxy of Maimonides’s writings, and again between 1303 and 1306 around the legitimacy of philosophical and scientific studies. These controversies echoed well beyond Languedoc, and beyond Jewish communities.¹⁹⁵ Moses, son of Samuel ibn Tibbon, was active between 1240 and 1283, and stayed in Naples until 1254 before coming back to Montpellier; he also translated many philosophical, medical, and more broadly scientific Arabic works.

The vibrant intellectual activity of these Jewish scholars involved contacts with Christian ones,¹⁹⁶ particularly regarding the translation of scientific works from

¹⁹¹ Ben-Shalom, “Southern France,” 189–90, and Gad Freudenthal, “Transfert culturel à Lunel au milieu du XII^e siècle: Qu’est-ce qui a motivé les premières traductions provençales de l’arabe en hébreu?,” in *Des Tibbonides à Maimonide: Rayonnement des juifs andalous en pays d’Oc médiéval. Colloque international, Montpellier, 13–14 décembre 2004*, ed. Danièle Iancu-Agou and Élie Nicolas (Paris, 2009), 95–108.

¹⁹² Freudenthal, “Transfert culturel à Lunel,” 108.

¹⁹³ See Paul B. Fenton, “De Lunel au Caire: une lettre préservée dans la ‘Guéniza’ égyptienne,” in *Des Tibbonides*, ed. Iancu-Agou and Nicolas, 73–81.

¹⁹⁴ See Dahan, *Les intellectuels*, 315. Görg K. Hasselhoff recently formulated the hypothesis that the full translation of the *Guide* had been carried out in Paris at the Dominican convent of Saint-Jacques in the 1240s, “The Translation of Maimonides’ *Dux neutrorum*,” 219–33.

¹⁹⁵ See Charles Touati, “Les deux conflits autour de Maimonide et des études philosophiques,” in *Juifs et judaïsme de Languedoc*, ed. Bernhard Blumenkranz and Marie-Humbert Vicaire, *Cahiers de Fanjeaux* 12 (1977), 173–84; Gérard Nahon, “Géographie occidentale et orientale des controverses maïmonidienne et post-maïmonidienne,” in *Des Tibbonides*, ed. Iancu-Agou and Nicolas, 19–31; and Josep Ribera-Florit, “La controverse maïmonidienne en Provence et en Catalogne,” in *Des Tibbonides*, ed. Iancu-Agou and Nicolas, 193–211.

¹⁹⁶ On the relationships between Jewish and Christian scholars from Samuel ibn Tibbon to the fifteenth century, see Ram Ben-Shalom, “The Tibbonides’ Heritage and Christian Culture: Provence, c. 1186–c. 1470,” in *Des Tibbonides*, ed. Iancu-Agou and Nicolas, 109–19.

Latin into Hebrew and vice versa, through the mediation of the vernacular.¹⁹⁷ Jacob ben Makhir (c. 1236–c. 1305), who was the last representative of the Tibbonides' dynasty, and a physician, astronomer, and translator, exemplifies the scientific relationships between Jews and Christians, particularly in the field of medicine. The famous letter he wrote in support of secular studies, in the context of the second Maimonidean controversy, conveyed the idea that the status of the Jewish communities and their intellectual activity were interwoven, for the prestige Jewish scholars had in Christian eyes redounded on all Jews:¹⁹⁸ "Even in the eyes of nations, our knowledge in secular studies constitutes our wisdom and understanding, so they would not say that our hearts are devoid of any intelligence and any science."¹⁹⁹

About a thousand Jews lived in Narbonne around 1300. The Kimhi family similarly founded a lineage of exegetes, grammarians, and translators there, who played a significant role in the transmission of Arabic knowledge. The most famous of them, David Kimhi (c. 1160–c. 1235), intervened in the first Maimonidean controversy. After he left Narbonne and tried to win over the support of Iberian communities to the cause of Maimonides, David Kimhi wrote to Judah Alfakhar, a famous Jewish physician of Toledo, that Solomon ben Abraham of Montpellier, who started the controversy against Maimonides, had denounced the latter's writings to the "Minorites" (the Franciscans), the "preachers" (the Dominicans), and a "cardinal," requesting that the *Book of Knowledge*²⁰⁰ and the *Guide of the Perplexed* be burned. David Kimhi's letter is one of the few extant sources about what occurred in Montpellier in 1232 or 1233.²⁰¹ Their credibility has been discussed; almost all were in favor of Maimonides, and no Christian source confirmed them.²⁰² As Jeremy Cohen has pointed out, one cannot be sure about the extent of the burning and the role of Solomon ben Abraham,²⁰³ but the events surely affected the Jewish population across Europe and in the Near East.²⁰⁴ What all the sources corroborate is the interest that the Dominican and Franciscan inquisitors took in the orthodoxy of Jewish writings. This apparent breach in Jewish doctrinal autonomy marked a watershed: "The Church's interest in contemporary Jewish life that began with the Maimonidean controversy boded ill for the Jews."²⁰⁵

Maimonides was the only nonbiblical Jew to appear both as a source and as an opponent in Olivi's discussion of the Old Law, written in Narbonne between 1292

¹⁹⁷ Ben-Shalom, "Southern France," 201.

¹⁹⁸ Kriegel, *Les Juifs*, 155. Ram Ben-Shalom gave other such examples in "The Tibbonides' Heritage," 113–19.

¹⁹⁹ Quoted by Maurice Kriegel in *Les Juifs*, 155. See Joseph Shatzmiller, "Contacts et échanges entre savants juifs et chrétiens à Montpellier vers 1300," in *Juifs et judaïsme de Languedoc*, ed. Vicaire and Blumenkranz, 337–44, at 337.

²⁰⁰ This true philosophical treatise corresponded to the introductory volume of the *Mishneh Torah* (1180), Maimonides's code of Jewish law.

²⁰¹ Jeremy Cohen quoted a passage of this letter in *The Friars and the Jews: The Evolution of Medieval Anti-Judaism* (Ithaca, NY, 1982), 54–55.

²⁰² Cohen, *The Friars and the Jews*, 56–58.

²⁰³ Cohen, *The Friars and the Jews*, 58.

²⁰⁴ Cohen, *The Friars and the Jews*, 56.

²⁰⁵ Cohen, *The Friars and the Jews*, 59.

and 1294. Although the philosopher is named once in Olivi's *Questions*²⁰⁶ and twice in his *Treatise*,²⁰⁷ implicit references can be found throughout his texts. These references often appear through the mediation of Thomas Aquinas, and occasionally through that of the *Summa Halensis*. Olivi's direct references to the *Guide of the Perplexed* remain hypothetical. Maimonides was not confined to the role of the opponent. His historical and rational explanations, as well as his ideas about the progress in knowledge, could fit into the Christian perspective in as much as they complied with the principle of adaptation which accounted for the Old Law.

Conversely, Olivi departed from Maimonides on one particular point. The idea that sacrifices were designed to ward off idolatry, Olivi said, "was made up by Rabbi Moses, a Spanish Jew,"²⁰⁸ in order to nullify the christological explanations. In the *Guide of the Perplexed*, Maimonides actually explained that the sacrifices had been ordered to avoid any sharp break with the idolatrous worship, since "man, according to his nature, is not capable of abandoning suddenly all to which he was accustomed."²⁰⁹ Therefore, God had transferred these kinds of worship "to His own name," and commanded "to practice them with regard to Him,"²¹⁰ so that "the memory of idolatry [be] effaced and that the grandest and true foundation of our belief—namely, the existence and oneness of the deity—[be] firmly established."²¹¹ By denouncing Maimonides's argument as an *ex post* argument meant to oppose the Christian interpretations of the Law, Olivi took a defensive stance, which reversed the terms of the historical situation: the Christian interpretation seemed to come first, with respect to the Jewish text that opposed it. Olivi underlined the novelty of the Maimonidean argument. As the Epistle to the Hebrews showed, "the Jews of that time," although they were "skilled enough to know the literal reasons for their ceremonial precepts, and extremely careful about the meaning of their ceremonies," believed that those precepts "could themselves provide justice and the justifications for sins," for it was this belief that the apostle had fought;²¹² he never claimed that the Jews considered those precepts as a means of fighting idolatry.²¹³

²⁰⁶ Olivi, *Questiones de legalibus*, q. 2, ad 2, 3°, fol. 14rb: "Sed postmodum, a Rabbi Moyse Iudeo hispano sunt excogitata ad evacuandum rationes supradictas ex relativa significantia ad Christum."

²⁰⁷ Olivi, *Tractatus cerimonialium*, fol. 31r: "in quo lex attenuavit superstitionem gentilium, qui non solum per contactum immundi dicebant immunditiam contrahi, sed etiam per colloquium et aspectum, ut Rabbi Moyses dicit de muliere menstruata" (the reference is comprised in the almost literal quotation from Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 102, a. 5, ad 4) ; fol. 35r: "Adeps etiam est eis prohibitus, tum quia idolatre edebant illud in honorem deorum suorum, tum quia cremabatur in cultum Dei, tum quia sanguis et adeps non generant bonum nutrimentum, secundum Rabbi Moysem" (after Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 102, a. 6, ad 1).

²⁰⁸ Olivi, *De legalibus*, q. 2, ad 2, 3°, fol. 14rb.

²⁰⁹ Maimonides, *Guide* 3, 32, 1963, ed. Pines, 2:526. This argument was frequently used in the third part of the *Guide*, see for instance 3, 29; 3, 30; 3, 49, etc.

²¹⁰ Maimonides, *Guide*, ed. Pines, 2:526.

²¹¹ Maimonides, *Guide*, ed. Pines, 2:527.

²¹² Cf. Heb. 10.1–18.

²¹³ Olivi, *Questiones de legalibus*, q. 2, ad 2, 3°, fol. 14ra–rb: "Cum iudei tempore suo satis essent in litteralibus rationibus suorum cerimonialium periti et sensus cerimoniis nimis intenti, patet quod bene scivissent sua sacrificia secundum se non valere ad expianda peccata, sed solum ad ritus idolatrie evitandos. Et tamen Apostolus in epistola ad Hebreos et in ceteris epistolis suis arguit contra eos tanquam contra credentes in illis secundum se esse iustitiam et iustificationem a peccatis. Ratione

According to Olivi, “in order to avoid idolatry, it would have been far better that . . . divine praises, prayers, spiritual laments, and contrition . . . be practiced, rather than burden people with so many diverting and ridiculous things.”²¹⁴ The theologian mentions with palpable disgust the “shedding of blood from the animals to be sacrificed,” and “the horrible stench from their burning” and from “the ejection of the excrements from their intestines.”²¹⁵ In addition, sacrifices were not meant to ward off idolatry, since they were ordered before idolatry was committed.²¹⁶ Lastly, the Law should have explained the reasons for them before anything else, which was not the case.²¹⁷

Strikingly, Olivi’s opposition to Maimonides’s argument does not seem to have any equivalent in the scholastic corpus on the Old Law. Only William of Auvergne stated in his *De legibus* that idolatry was not the sole reason why God wanted to be given sacrifices; they had, after all, existed before idolatry had been committed, as demonstrated by the examples of the offerings and sacrifices from Cain, Abel, and Melchizedek.²¹⁸ However, William of Auvergne did not attribute this reason to Maimonides, whom he never mentioned, while only referring to “those who expressed such an opinion.”²¹⁹ Overall, the scholastic theologians used Maimonides’s justification of the ceremonial precepts as a means against idolatry, among other literal explanations.²²⁰ Conversely, the prologue of Olivi’s *Treatise* highlighted that

autem idolatrie pro illa vitanda numquam aliquid innuit. Ex quo videtur quod illa ratio pro illo tempore pro nulla aut pro minima habebatur.”

²¹⁴ Olivi, *Questiones de legalibus*, q. 2, ad 2, 1°, fol. 14ra.

²¹⁵ Ibid.: “Ad vitandum idolatriam longe prevaluisset in solo cultu divinarum laudum et supplicationum et spiritualium planctuum et contritionum exerceri . . . quam tot distractivis et ridiculosis onerare, et etiam per tantam effusionem sanguinis animalium immolandum, et per horribilem fetorem combustionis eorum et per reiectionem stercorem et fecis intestinorum se ipsos ac Dei altare semper fedare.”

²¹⁶ Olivi, *Questiones de legalibus*, q. 2, *responsio*, 3°, fol. 11rb–va: “Nam ante ortum idolatrie, et quasi statim post lapsum primi hominis, ceperunt cerimonie sacrificiorum et oblationum, sicut patet Gen. 3° in Abel offerente de primogenitis et de adipibus gregis sui [Gen. 4.4], et Gen. 8° in Noe offerente de pecoribus et volucribus holocausta [Gen. 8.20]. Tunc etiam erant cerimonie discretionis animalium mundorum ab immundis, sicut patet Gen. 7° et 8° [Gen. 7.2; 8.20]. Ibidem etiam statuitur cerimonia de non edendo carnem cum sanguine, suffocatum et morticinum [Gen. 9.4]. Ergo non potest dici quod hec statuta non sint nisi pro vitandis superstitionibus idolatrie”; *ibid.*, q. 2, ad 2, fol. 14ra: “Secundo, quia secundum hoc non fuisset ante idolatriam data et secundum variationem rituum idolatrie fuissent variata et variari iussa.”

²¹⁷ Olivi, *Questiones de legalibus*, q. 2, ad 2, 3°, fol. 14ra: “Tertio, quia saltem hoc causa debuisset pre ceteris exprimi in locis ubi hec precepta traderentur, cuius oppositum superius est probatum.”

²¹⁸ William of Auvergne, *De legibus*, ed. Hotot, 29.

²¹⁹ Ibid.

²²⁰ See Thomas Aquinas, *Summa theologiae*, Ia IIae, q. 102, a. 3, *responsio*, 2°: “Et ideo de causa caeremoniarum circa sacrificia potest assignari ratio alio modo, ex hoc quod per huiusmodi homines retrahebantur a sacrificiis idolorum. Unde etiam praecepta de sacrificiis non fuerunt data populo iudaeorum nisi postquam declinavit ad idolatriam, adorando vitulum conflatilem, quasi huiusmodi sacrificia sint instituta ut populus ad sacrificandum promptus, huiusmodi sacrificia magis Deo quam idolis offerret”; q. 103, a. 1, *responsio*: “Fuerunt igitur ante legem quaedam caeremoniae, non tamen caeremoniae legis, quia non erant per aliquam legislationem institutae”; q. 103, a. 1, ad 1: “Huiusmodi oblationes et sacrificia et holocausta offerebant antiqui ante legem ex quadam devotione propriae voluntatis, secundum quod eis videbatur conveniens ut in rebus quas a Deo acceperant, quas in reverentiam divinam offerrent, protestarentur se colere Deum, qui est omnium principium et finis”;

literal reasons were often insufficient and that it was necessary to add some spiritual reasons, “as is the case, for instance, when it is said that the sacrifices of the animals that idolatrous people worshipped as if they were gods aimed at avoiding idolatry. Indeed, how was it useful to sacrifice sometimes one lamb, sometimes two, sometimes five?”²²¹ Olivi also asserted that this reason, along with the testing of obedience, was the first among the reasons for the ceremonial precepts, “in addition to those which were derived from the relation to Christ.”²²² Furthermore, he used this reason throughout his *Treatise*, regarding for instance the quadrupeds which should be sacrificed, the way in which animals should be put to death, the prohibition on offering leaven or honey, the uniqueness and orientation of the tabernacle, the impurity of men and objects, or the use of fat and blood. Maimonides’s argument seemed to resist the refutation which was at the core of Olivi’s second Question. In fact, Olivi did not state that Maimonides’s argument was null and void; he only stated that it was insufficient, and he always used it in connection with spiritual reasons, as Aquinas did. Maimonides’s intention was denounced, but his argument nonetheless integrated.

Overall, Olivi and Maimonides agreed on the rationality of the Law and disagreed on its function and duration. The historical and rational explanations of the Jewish philosopher aimed at proving the permanence of a perfect Law which was given by God,²²³ whereas Olivi deemed it most adequate for a bygone time, and asserted it was to be fulfilled by Christ. According to Maimonides, the Law helped alleviate the heavy burden of idolatrous worship,²²⁴ whereas Olivi opposed the “light burden” of Christ²²⁵ to the “unbearable burden” of “useless” observances.²²⁶ This is less of a dialogue, even complex, and more of parallel arguments. Indeed, just as the New Law was supposed to incorporate the Old Law and go beyond it, Olivi strove to integrate the Maimonidean rationalisation and go beyond

see also *Summa theologia Halensis*, Lib. 3, Pars 2, Inq. 3, Tr. I, q. 2, cap. 1 and cap. 2, a. 2, ed. Basse, 276 and 308; Lib. 3, Pars 2, Inq. 3, Tr. 2, Sectio 3, q. 2, ed. Basse, 1676.

²²¹ Olivi, *Tractatus ceremonialium*, fol. 24r: “Advertendum tamen quod multa respectu rationum litteralium carent ratione, que habent mysticas rationes. Unde et hoc valet ad probandum quod saltem in huiusmodi rationes litterales absque mysticis non sunt sufficientes, puta quod ad vitandam idolatriam valent sacrificia animalium que idolatre velut deos colebant. Sed quid prodest quod sacrificetur modo unus agnus, modo duo, modo quinto, et sic de aliis ritibus idolatrarum?”; cf. Maimonides, *Guide* 3, 26, ed. Pines, 2:989–90.

²²² Olivi, *Tractatus ceremonialium*, fol. 24r: “Quinto sciendum est quod quattuor genera rationum preter illud quod sumitur respectu ad Christum. Et preter rationem sumptam ex probatione obedientie, solent in huiusmodi assignari primo ad vitandum idolatrie cultum.”

²²³ Maimonides, *Guide* 2, 39, ed. Pines, 2:379–80.

²²⁴ Maimonides, *Guide* 380, and 3, 49, ed. Pines, 2:612.

²²⁵ Olivi, *Questiones de legalibus*, q. 2, ad 4, fol. 15ra (after Matt. 11.30): “Presupposita in statu et tempore perfectionis communiter offerenda et danda omnibus reducendis in Deum, plus expedivisset iugum Christi suave et onus eius leve aut timor pene eterne eis expresse comminare aut aliqua moralior moraliter et utilior correctio et cohibito vitiorum et proterviarum.”

²²⁶ Olivi, *Questiones de legalibus*, q. 2, *responsio*, 1°, fols. 10vb–11ra: “Homini etiam ad vitiosas concupiscentias et accidias et torpores vincendas et extinguendas nimium laborare habenti, multo utilius imponitur iugum obedientie in solis istis et in paucis aliis ex sua idoneitate valde ad hoc conferentibus, quam in horum impedimentum et aggravamentum et in onus importabile et infirmo homini ruinosum in nimia precepta observantiarum de se inutilium superimpositione, iuxta illud Petri Act. 15 °: *Hoc etiam onus quod neque nos nec patres nostri portare potuimus.*”

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it. From the Christian perspective, when no reason could account for the precepts, it was not because of their transcendence, nor was it because of the weakness of human intellect, but because the Law pointed to something else.

Maimonides's presence in Olivi's texts situates them in an intellectual landscape that Aquinas's mediation is insufficient to characterize. As the Franciscan theologian worked mostly in Languedoc, between the two episodes of the Maimonidean controversy and between the two centers of Montpellier and Narbonne, where Jewish scholarship was largely influenced by Maimonides's works, might he have had real Jewish interlocutors? Robert Lerner has pointed out that scholastic works seldom referred to personal experience, and Olivi apparently never wrote anything regarding his relations with Jews. Throughout his writings, his attitude toward them appears as "relatively nonconfrontational."²²⁷ Lerner has further suggested that the contemporary context of Languedoc could help explain this "relative lack of tension in Olivi's references to Jews."²²⁸ Despite the increasingly hostile attitude conveyed by the restrictive measures introduced by the French kings, including forced attendance at sermons preached by Dominican friars, this region remained "an area of prosperous Jewish settlement and relative confessional peace."²²⁹ The *Questions*—especially the second, where Olivi showed that the literal interpretation of the precepts and the Maimonidean justification for the sacrifices were not sufficient—may have been more than arguments and counter-arguments expressed in a vacuum, or a fictitious dialogue with Maimonides. They may have resulted from real discussions with unknown, pro-Maimonidean, Jews. In the teaching context in which they were produced, Olivi may have aimed at reminding his students of the hierarchy of interpretations. Even if it was not about preventing them from the seductions of Maimonidean explanations, it was meant at least to help them face these explanations in hypothetical debates with local Jews or in the context of their future pastoral tasks.

So the laws Olivi discussed were not so old after all. They might have come less directly from the biblical text than from the explanations Maimonides provided, which Jewish scholars of Languedoc perpetuated well beyond the thirteenth century. Moreover, in analyzing the different categories of precepts, Olivi addresses a wide range of human activities and of social, political, and economic relationships, which fell within the scope of scholastic interests, such as the institution, transmission, and division of power; the legal procedure and evidence; the types and purposes of punishments; the different kinds of contracts and vows; the relationships between spouses, between masters and slaves, or citizens and foreigners. Women play a particular role, through the recurrent themes of virginity, rape, and repudiation, through the developments regarding oath-taking, and through incidental mentions of their civil or military incapacity, or of their being prone to lust and dissimulation. When addressing this unexpectedly wide range of topics, the theologian is not only analyzing outdated rules, or precepts which would apply only to Jews.

²²⁷ Lerner, *The Feast of Saint Abraham*, 58.

²²⁸ Lerner, *The Feast of Saint Abraham*, 59.

²²⁹ Lerner, *The Feast of Saint Abraham*, 59–60.

The principles and general requirements he inferred from the rationality of the precepts could also participate in the shaping of contemporary social mechanisms.²³⁰

CONCLUSIONS

Olivi's understanding of Hebrew scriptures provides an interesting basis for connecting different fields of historical research, namely the history of Christian intellectuals and scholasticism, the history of Christian approaches to the biblical text, and the history of Jewish-Christian relations in the late thirteenth century. Within intellectual history, the interweaving of the contents and materiality of the texts, elements from Olivi's life and career, and the setting of the academic and local contexts, has allowed us to reconstruct the intellectual environment—collective and individual, Jewish and Christian—within which these texts were produced, circulated, and preserved. The investigation has revealed two main discrepancies, between the intellectual contents and their material transmission on the one hand, and between the relevance of the local context and the impossibility to substantiate it on the other hand.

Without challenging Olivi's indisputable originality and inventiveness, it appears that the doctrine and references he drew on in these texts, regardless of their material form, closely linked him to the mainstream of scholastic works on the Old Law produced over the previous decades. He was particularly familiar with the texts where Thomas Aquinas addressed the different kinds of precepts, including many references to Maimonides, whose rational explanations fitted into the framework of scholastic rationality, at least in terms of literal interpretation. At the same time, the provenance of the manuscript suggests that there were difficulties in the process of its copying and circulation, related to the vicissitudes of Olivi's career in the Franciscan order and the preservation of his works after his death. However, his writings on the Old Law were neither destroyed nor torn out, as was the case of the *Prophetia Cyrilli*, but preserved by the inquisitor. In all probability, the conditions created by the persecution nonetheless affected the copying of the texts, the inconsistencies of which have been highlighted.

Moving from the consideration of the Christian context to that of Jewish-Christian relationships, I have shown that Christian understandings of Hebrew scriptures could provide a relevant basis for an approach to the perception of the Jews. Although the historical figure of Maimonides stands out from the crowd of "hermeneutical Jews," and despite Olivi's isolated attempt to discard the Maimonidean justification for sacrifices as directed against idolatry, it proves impossible to substantiate the hypothesis of actual links with real Jews in Languedoc. As matters stand, the mediation of Aquinas's work may have had greater weight than the contemporary interaction with Jewish scholars. It may be that Olivi's Maimonides came from Paris, where Aquinas completed his questions on the Old Law in 1271, rather than from Languedoc, where the original version of the *Guide of the Perplexed* was received by Jewish scholars,

²³⁰ In this respect, it must be noted that Olivi made no reference at all to Aristotle, while Aquinas constantly used and mentioned the Philosopher in his texts on the Old Law; on Olivi and Aristotle, see Burr, "Petrus Ioannis Olivi and the Philosophers," 41–71, and Piron, "Le métier," 17–85.

where the first Maimonidean controversy broke out, and where scholarly connections existed between Jewish and Christian scholars through the use of the vernacular. In such a case, we should assume that the Franciscan theologian simply thought and worked outside his context, using the Jewish philosopher as a distant scholarly reference. This does not preclude the fact that the use of the Maimonidean reference—just as the Olivian version of the “hermeneutical Jews”—made sense in a local context of interactions, scientific or daily, with real Jews. The setting of the Jewish intellectual backdrop suggests the particular importance of Maimonides at that time and place, and participates in illuminating the conditions in which Olivi carried out his investigation into the nature, form, and validity of the different categories of the precepts of the Law.

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ON JEWISH INTELLECTUALS WHO CONVERTED IN THE EARLY MIDDLE AGES*

SARAH STROUMSA

“Minorities living amidst a huge majority are prone to be partly absorbed by it,” remarks S.D. Goitein in his discussion of converts and proselytes in light of the Genizah documents.¹ From this generalization it is apparent that, in the Islamic world, conversion of Jews to Islam is essentially both a natural and a foreseeable process. Nevertheless, when we scrutinize individual instances of conversion, we are likely to find immediate factors which bring about—or at least hasten—the decision in each case to adopt another faith. In his discussion of Jewish conversion to Islam, Goitein counts among these factors alienation from the Jewish community—both in a geographic and social sense—on the one hand, and attraction to Islam, on the other. In this context, he presents the conversion of Jewish dignitaries to Islam as an expedient measure adopted for the sake of advancement as well as a means of avoiding persecution. Indeed, Goitein’s opening sentence cited above reflects his conviction that the conversion of Jews to Islam can be explained by the force of the dominant faith.

Obviously, Jewish intellectuals living under Islamic rule were affected by the same forces of attraction and repulsion which affected the larger Jewish community.² On occasion, intellectuals were forcibly converted;³ we certainly can find instances of Jewish humanists who apostasized half-heartedly—as did Heine in his time solely in order to gain an entrée into society.⁴ In devoting a separate study to conversion among intellectuals,

* An earlier version of this paper was published in Hebrew in *Pe’amim* 42 (1990): 61–75. I wish to express my gratitude to Daniel Frank, who translated the Hebrew and offered many judicious remarks for its revision.

¹ S.D. Goitein, *A Mediterranean Society* (Berkeley and Los Angeles, 1971), 2:299. See further his comments, 300–301.

² For lack of anything better and despite its slightly modern flavor, I have used the term “intellectuals” in this paper to designate those learned individuals whose writings and deeds testify to their particular interest in ideas.

³ According to Muslim sources, this was the case with Maimonides—see: Ibn al-Qiftī, *Ta’arikh al-hukamā’*, ed. J. Lippert (Leipzig, 1903), 317–19; B. Lewis, *The Jews of Islam* (Princeton, 1984), 100; D.S. Margoliouth, “The Legend of the Apostasy of Maimonides,” *JQR* o.s. 13 (1901): 539–41. The same was true of Joseph Ibn ‘Aqnīn, as he himself testifies; see Joseph ben Judah Ibn ‘Aqnīn, *Commentary on the Song of Songs*, ed. A.S. Halkin (Jerusalem, 1964), 500.

⁴ See *EJB*, s.v. “Heine, Heinrich.” A note of skepticism as to the sincerity of Jews converting

however, we begin with the underlying assumption that it is possible to discern some sort of unifying element in their conversion processes—an element bound up with the fact of their being intellectuals. It is possible, moreover, that such a unifying element finds expression in motivations for conversion which do not exist—or at least not to the same degree—among other segments of the population.

Since intellectuals by definition engage in ideas, we might initially expect the influence of the majority upon them to express itself in spiritual and intellectual terms. Some scholars have suggested the attraction to a “wiser,” “more spiritual” religion and to religio-mystical experience as a factor in the conversion of Jews.⁵ In support of this theory, it may be noted that Jews who converted to Christianity indeed explicitly expressed their attraction to the more “spiritual” religion.⁶ It seems to me, however, that among Jewish intellectuals living in Islamic lands—as among their Christian counterparts—this was not one of the stated factors for conversion to Islam. Even the role of Sufis in disseminating Islam probably expressed itself not so much in their presentation of a more “spiritual” religion, as in other aspects of their activity.⁷ Nevertheless, it can be assumed that for the intellectually inclined, the desire to assimilate within the majority society also encompasses a longing to participate in a world of ideas regarded as superior, to be admitted to the cultured world.⁸

Also, because the intellectuals were literarily inclined, we may expect them to have recorded the circumstances of their decisions to convert, thereby affording us a glimpse of the apostates’ inner world. In the writings of those intellectuals who apostasized out of inner conviction we can also hope to find some analysis of those spiritual factors which they found to be superior in their new faith. In instances of opportunistic or forced

to Islam may be discerned in *The Apology of al-Kindi*, which says: “A Jew remains true to his Judaism and preserves the laws of his Torah (even) when he shows himself to be Muslim” (*inna al-yahūdī innamā taṣīḥu yahūdīyyatuhu wa-yahfazu sharā’i’ tawrātihi idha aḏhara al-islām*), see Georges Tartar, *Dialogue Islamo-chrétien sous le calife al-Ma’mun (813–834), les épîtres d’al-Hasimi et d’al-Kindi; thèse pour le doctorat de 3 cycle* (Strasbourg, 1977), 94.

⁵ See Lewis, *Jews of Islam*, 95.

⁶ This was the case, e.g., with Herman of Cologne—see J. Cohen, “The Mentality of the Medieval Jewish Apostate: Peter Alfonsi, Herman of Cologne, and Pablo Christiani,” in *Jewish Apostasy in the Modern World*, ed. T.M. Endelman (New York and London, 1987), 33–35.

⁷ See N. Levtzion, “Toward a Comparative Study of Islamization,” in *Conversion to Islam* (New York and London, 1979), 16–21.

⁸ An anonymous polemical treatise found in the Firkovich collection at St. Petersburg (II Firk. Heb.-Arab.I.3022) tells us of the intellectual attraction that Islam had for Jews in his time. The author, writing in tenth-century Iraq, says that Islam was presented to them in a beautiful, logical way, and many converted.

conversion, on the other hand, we may also expect our literary sources to reveal a certain tension between an author's past and his inner convictions and between the day-to-day existence which he chose to live.⁹

In fairness, it ought to be stated that the study of intellectuals and their religious conversions is necessarily marred by a certain measure of arbitrariness. The limitations of such a study may be illustrated by one defining aspect of these intellectuals, viz. their professions. Learned businessmen and craftsmen were certainly to be found in the medieval Jewish world; by virtue of their employment, however, these people were not considered intellectuals. Even when such individuals appear in texts and documents, what is recorded generally—though not always—reflects their financial problems rather than their intellectual pursuits.¹⁰ By way of contrast, for the period under consideration, physicians were generally regarded as scholars whose intellectual interests were manifest in their profession. Biographical works were, therefore, devoted to them; these enable us to become acquainted with them and their life-stories. Physicians figure prominently, therefore, in our discussion of intellectuals, even though there is no certainty that they actually constituted such a high proportion of the intellectual elite. From the distance of several hundred years, however, we can identify as “Jewish intellectuals who converted” only those individuals who were raised and educated as Jews, who were sufficiently important to have made an impression upon their contemporaries, and whose conversion was, therefore, duly noted. We may well suppose that there were numerous instances of educated individuals and men of letters who converted. If, however, the Muslim chroniclers did not mention them by name or if they themselves left no written accounts, then we have no way of knowing about them or of following their conversion.

In the following pages I neither claim to describe a social stratum nor offer a comprehensive sociological analysis of Jewish intellectuals who converted within the Islamic world. The quantity of factual evidence available to us does not, in my opinion, warrant such an analysis. Historians and sociologists must necessarily make do with the “socio-biographical” description of isolated instances that have come down to us. What follows is an attempt to analyze some such isolated instances from the perspective of intellectual history.

⁹ See, e.g., Heine's “Hebrew Melodies.”

¹⁰ An exception to this can be seen in the *Kitāb al-manāẓir*, which records the weekly scholarly meetings of learned merchants and artisans in tenth-century Mosul. See H. Ben-Shammai, “A Philosophical Study Group in Tenth Century Mosul—A Document for the Socio-Cultural History of a Jewish Community in a Muslim Country” (Hebrew), *Pe'amim* 41 (1990): 21–31.

Ka'b al-Akhbār

For the period of Islamic origins we lack real documentation relating to the subject of this inquiry.¹¹ The Muslim tradition literature relates that Ka'b al-Akhbār awaited the advent of the Prophet foretold by the Scriptures, even before he became the first Jew to convert to Islam. It is further related that his expectations were strengthened and fuelled by dream visions; ultimately he converted, having recognized in Muḥammad the likeness of the expected prophet. Numerous Jewish traditions (*isrā'īliyyāt*) have been transmitted in Ka'b's name. The figure of Ka'b thus personifies the processes of Jewish influence upon early Islam. Certain features of Ka'b's story which recur frequently in the conversion accounts of intellectuals shed light upon the individual's personal process of conversion to Islam: the tendency to provide intellectual justification by citing and analyzing biblical prooftexts; the production of supernatural justification in the form of dream-experiences¹²; and the attempt to preserve a cultural and spiritual continuity between the old and new faiths even after the conversion had taken place. At the same time, however, it must be said that the figure of Ka'b belongs more to the realm of myth than of history.¹³

More detailed documentation concerning conversion becomes available for the third Islamic century; even here, however, our information remains scarce indeed. There is a gap of some three centuries between the first and second documented instances of conversion by Jewish intellectuals. I shall deal below with these two examples from the classical period of Islam. It must be emphasized, however, that the chronological gap between these two cases makes it impossible to argue that they are in any way representative of the period as a whole: the most that can be said is that they contribute to our understanding of the conversion phenomenon among Jewish intellectuals.

¹¹ I refer here to the first and second centuries A.H., i.e. the seventh and eighth centuries C.E. This is the period commonly referred to as "The Early Islamic Middle Ages," a term which reflects the periodization of European historiography. It may be more appropriate to speak of "the period of high caliphate," as suggested by M. Hodgson, *The Venture of Islam: Conscience and History in a World Civilization*, Vol. I: *The Classical Age of Islam* (Chicago and London, 1979), 234–35. On the question of periodization, see also B. Lewis, *Jews of Islam*, 107–11; R. Brague, "Elargir le passé, approfondir le présent," *Débats* 72 (1992): 34.

¹² On dreams paving the way for conversion see, for instance, H.J. Fischer, "Dreams and Conversion in Black Africa," in *Conversion to Islam*, 218–19, 231–35.

¹³ See *EI*, 2d ed., s.v. "Ka'b al-Akhbār" and Lewis, *Jews of Islam*, 96–97.

Conversion to Christianity under Islamic Rule: Dāwūd al-Muqammaṣ

We begin with the conversion of Dāwūd ibn Marwān al-Muqammaṣ (ninth century C.E.). The Karaite al-Qirqisānī reports that al-Muqammaṣ converted to Christianity and lived for many years among the Christians of Nisibis.¹⁴ Under Islamic rule, the Christians were designated a protected minority (*ahl al-dhimma*). The protection, however, depended on the good will of the ruler, and the Christians were sometimes persecuted. Thus, the Christian theologian, Nonnus of Nisibis, who was probably al-Muqammaṣ's teacher, languished for many years in prison where he had been cast by the Caliph al-Mutawakkil.¹⁵ We certainly cannot maintain, therefore, that someone converting to Christianity under Islamic rule was attracted either to the power of the dominant religion or to the convenience of the majority faith. Moreover, since Islamic law does not permit any conversion within its realm save to Islam, such an act could even entail some danger.¹⁶ We have, however, no evidence to suggest that al-Muqammaṣ in any way endangered himself by converting to Christianity. It is possible that the Muslim authorities refrained from interfering with the domain of the Christian academies; it is also possible that the conversion of a Jew to Christianity was sufficiently rare in this period to be conveniently ignored by the Muslim authorities.

Al-Qirqisānī does not attempt to describe the psychological changes experienced by al-Muqammaṣ at the time of his conversion to Christianity; al-Muqammaṣ, for his part, does not inform us of his innermost feelings. We may assume that we have before us a classic instance of *conversio*—the adoption of Christianity out of a real change in faith.¹⁷ If this was indeed the case, it would seem that al-Muqammaṣ found the experience to his taste, for he indulged in it a second time: from his writings it appears that subsequent to becoming a Christian, he returned to Judaism, devoting his best literary efforts thereafter to refuting Christianity.

At first glance, then, it would seem that this example is in no way

¹⁴ See Ya'qūb al-Qirqisānī, *Kitāb al-anwār wa'l-marāqib*, ed. L. Nemoy (New York, 1939), 1:44. Concerning al-Muqammaṣ, see S. Stroumsa, *Dāwūd ibn Marwān al-Muqammaṣ's 'Ishrūn Maqāla* (Leiden, 1989). On the vocalization of his name, see S. Stroumsa, "La perception maïmonidienne du kalām juif; sa véracité et son influence" *Genos* (Lausanne, forthcoming), n. 12.

¹⁵ On Nonnus see A. Van-Roey, *Nonnus de Nisibe, traité apologétique* (Louvain, 1948).

¹⁶ See Goitein, *Mediterranean Society*, 2:305 and A. Fattal, *Le Statut légal des non musulmans en pays d'Islam* (Beirut, 1958).

¹⁷ On the distinction between "conversion" and "adhesion" see A.D. Nock, *Conversion: The Old and New in Religion from Alexander the Great to Augustine of Hippo* (Oxford, 1933), 7ff.

representative of the conversion of Jews under Islamic rule and that it offers us nothing beyond the eccentric deeds of one individual. In fact, the eccentric elements which we observe in al-Muqammaṣ's behavior reflect the typical peculiarities of an intellectual: the search for education and learning wherever they can be found, the quest for religious truth, and the tendency to identify the place of religious truth with the place of education and learning.

Certain scholars have cast doubts upon the reliability of al-Qirqisānī's assertion that al-Muqammaṣ actually converted to Christianity; others emphasize that we lack explicit evidence for his reversion to Judaism.¹⁸ It seems to me, however, that taken together, both conversions may be accepted as true facts. Both conversions may be explained not only on the basis of the information in our sources but also on the basis of al-Muqammaṣ's personality and the cultural world in which he lived. For while it is true that during the third Islamic century there existed a Muslim intellectual elite—whose influence upon al-Muqammaṣ was considerable—its prestige at the time was still outstripped by Christian superiority in the study of philosophy and the sciences. The prestige enjoyed by Christians manifested itself in their status as translators, as appointees to positions in the Royal Library (*bayt al-ḥikma*), and as court physicians; it also aroused the jealousy of their Muslim neighbors.¹⁹ While al-Muqammaṣ's writings do not, in fact, reflect great intellectual depth, a true intellectual curiosity is discernible in them. It was natural for such a person, determined as he was to study philosophy, to be attracted to the centers of Christian learning. If this was the situation in his day, we may suppose that such an attraction existed—perhaps to an even greater degree—in the first and second Islamic centuries. The letters of Bishop Timotheos I (eighth century, Baghdad) mention a learned Jew who was preparing to convert to Christianity. Like al-Muqammaṣ, Timotheos's Jewish novice reveals an interest in the archaeological discoveries of the day and in their significance for the history of religions.²⁰ If we do not maintain that these two apostates were one and the same person—a claim rendered problematic by chronological considerations—it appears that in the early Islamic period, Chris-

¹⁸ See, e.g., the relevant article in *EJB*.

¹⁹ Through the special honors accorded them, Christians frequently incurred an additional measure of hatred; see, e.g., al-Jāḥiẓ, "Al-radd 'alā 'l-naṣārā" in *Thalāth rasā'il*, ed. J. Finkel (Cairo, 1344/1926). And see also A.S. Tritton, *The Caliphs and Their Non-Muslim Subjects* (London, 1970), 92–95.

²⁰ See O. Braun, "Ein Brief des Katholikos Timotheos über biblische Studien des 9 Jahrhunderts," *Oriens Christianus* 1 (1901): 299–313.

tianity held a fascination for a certain type of Jewish intellectual.

On the other hand, as we have already said, al-Muqammaṣ lived in a period when Muslims had already begun to compete with Christians in the fields of theology and philosophy. Traces of Muslim arguments against Christianity are observable in al-Muqammaṣ's writings. That same curiosity which had brought him to Christianity in the first place, also spurred him to become acquainted with the Muslim polemics against Christianity. We may suppose that such confrontations between Christianity and Islam sharpened his doubts—doubts which in the end led him back to Judaism.

Jews who converted to Islam

If we accept the premise that al-Muqammaṣ's attraction to intellectual superiority played a decisive role in his conversion to Christianity, we may also presume that Christianity lost its attractiveness for Jews living in Islamic lands when the Muslims achieved supremacy in philosophy and the sciences during the following centuries.²¹ Sa'd b. Maṣṣūr Ibn Kammūna, a thirteenth-century Jewish intellectual—who, it has been suggested, may also have apostasized—summarized the reasons for converting to Islam as follows:

That is why, to this day we never see anyone converting to Islam unless in terror, or in quest of power, or to avoid heavy taxation, or to escape humiliation, or if taken prisoner, or because of infatuation with a Muslim woman, or for some similar reason. Nor do we see a respected, wealthy, and pious non-Muslim well-versed in both his faith and that of Islam, going over to the Islamic faith without some of the aforementioned or similar motives.²²

Ibn Kammūna thus explicitly rejects the possibility of conversion to Islam for any but the most pragmatic of motivations—especially in cases involving individuals who are “well-versed in both their own faith and that of Islam,” i.e., people possessing religious learning.

We will examine below Ibn Kammūna's categorical statement concerning those Jewish intellectuals whose conversion to Islam left traces in the literary sources. The number of these individuals is extremely limited and

²¹ However, the tenth-century Karaite author Japheth b. Eli, in his commentary on Deut. 4:28 (B.L. ms. Or. 2478, fol. 42a, lines 4–6) still speaks of Jews whom “you can see today apostasizing and converting to Christianity.” For this reference I am indebted to Daniel Frank.

²² See M. Perlmann, *Ibn Kammūna's Examination of the Three Faiths* (Berkeley and Los Angeles, 1971), 149. For the Arabic text see idem. ed., *Tanqīḥ al-Abḥāth li'l-Milal al-Thalāth* (Berkeley and Los Angeles, 1967), 102.

the impression made by their conversion to Islam is not sufficiently detailed to permit us any certain conclusions; what follows, therefore, should not be taken as anything more than reasonable postulation.

Ibn Kammūna's words, which unequivocally reject any possibility of an intellectual attraction to Islam, reflect a polemical stance. It is certainly reasonable to suppose, however, that not only did such an attraction actually exist but that it may even have caused certain individuals to convert. All the same, can we speak of a more general phenomenon of conversion to Islam due to intellectual motives?

A. *Abū'l-Barakāt al-Baghdādī*

The next apostate whom we will discuss—and who represents, incidentally, the next instance of a Jewish intellectual's conversion to Islam which is documented in some detail—has led scholars to posit the existence of just such a wide-spread phenomenon. Three Jewish scholars in twelfth-century Baghdad converted to Islam. Of this group, the two younger men—the poet Isaac ben Abraham Ibn Ezra and the mathematician, physician and polemicist Samuel Ibn Abbās ha-Ma'aravi (Samau'al al-Maghribī)—were the disciples of the third—the philosopher, “Netanel, the Unique One of His Generation,” i.e. Ḥibat Allāh Abū'l-Barakāt al-Baghdādī. Various scholars have been inclined to suppose that the two younger men converted to Islam under the influence of their master.²³ From this, apparently, they have inferred the existence of a learned Jewish “circle,” whose studies and discussions prompted its members to recognize the truth of Islam. Such a circle would offer an ideal object for the study of conversion among intellectuals in general. Before adopting such a theory, however, we ought first to re-examine the accuracy of the description upon which it is grounded.

Our knowledge of Abū'l-Barakāt al-Baghdādī's conversion to Islam derives solely from Muslim sources; the Jewish sources are utterly silent on the matter. In the literary debate between Maimonides and Samuel ben 'Eli, Abū'l-Barakāt's name is mentioned without any derogatory epithet.²⁴

²³ Moshe Perlmann mentions this as a coincidence deserving of note, without insisting upon any necessary connection between the three instances; see the introduction to his “Ifḥām al-Yahūd,” *PAAJR* 32 (1964): 16. See also: Menahem H. Schmelzer ed., *Isaac Ben Abraham Ibn Ezra: Poems* (New York, 1980), xi; N. Ben-Menahem, *Isaac Ibn Ezra: Poems* (Jerusalem, 1950), 44; and J.L. Fleischer, “Le-qorot yiṣḥaq ibn 'ezra,” *Sinai* 21 (1947): 263–76. See also *Encyclopedia Hebraica*, s.v. “Ibn Ezra, Yiṣḥaq ben Avraham.”

²⁴ See J. Finkel ed., “Maimonides' Treatise on Resurrection,” *PAAJR* 9 (1938–1939): 12–13 of the text; S. Stroumsa, “On the Maimonidean Controversy in the East: The Role of Abū al-Barakāt al-Baghdādī” (Hebrew), in *Hebrew and Arabic Studies in Honour of Joshua Blau*

This fact was noted with mild surprise by scholars.²⁵ There is, in fact, no cause for astonishment: the Genizah documents record no custom of cursing apostates,²⁶ and it seems that instances of conversion to Islam whose pragmatic benefits were obvious were received with a measure of understanding.²⁷ While it is true that Abū'l-Barakāt's philosophical writings were not widely disseminated in Jewish intellectual circles, it appears that there was no connection between this fact and his conversion to Islam; his lack of popularity ought not to be regarded as evidence of any ban against him. The fact that his writings belong to the realm of general philosophy and that they were originally set down in Arabic rather than Hebrew script led to their not being classified as works of a specifically Jewish character but rather as philosophy proper.²⁸ And in this category there were other writers whose works were preferred to those of Abū'l-Barakāt among both Jewish and gentile audiences.

There are four reports extant concerning Abū'l-Barakāt's conversion to Islam.²⁹ All four recount that he became a Muslim at a very advanced age, and that the recognition of Muḥammad's prophethood was not a factor in his decision. Two of the reports connect his conversion to a craving for honor and the realization that he would not receive the respect due a court physician so long as he remained Jewish. According to Ibn Abi Uṣaybi'ah, Abū'l-Barakāt was enraged when the Chief Justice (*qāḍī al-quḍāt*) remained seated before him and did not rise out of respect.³⁰ Ibn al-Qifti recounts that Abū'l-Barakāt was insulted by a satiric ditty composed against him by Ibn al-Aflah.³¹ The other two reports indicate that the elderly philosopher converted to Islam out of fear for his life: in this connection, Ibn al-Qifti mentions a royal patient who died in Abū'l-Barakāt's care,³² while al-Bayhaqī records that the decision to convert came when Abū'l-Barakāt

Presented by Friends and Students on the Occasion of his Seventieth Birthday, ed. H. Ben-Shammai (Jerusalem, 1993), 415–22.

²⁵ See Pines, "Studies in Abū'l-Barakāt al-Baghdādī's Poetics and Metaphysics," *Scripta Hierosolymitana* 6 (1960): 121 [= idem., *Studies in Abū'l-Barakāt al-Baghdādī: Physics and Metaphysics* (Jerusalem, 1979), 260].

²⁶ See Goitein, *Mediterranean Society*, 2:301.

²⁷ As, for example, in the case of Ibn Killis—see Goitein, *ibid.*

²⁸ On a copy of his main composition in Hebrew characters see Tzvi Langermann, "A Fragment of Abū'l-Barakāt al-Baghdādī's *al-Kitāb al-Mu'tabar*" (Hebrew), *KS* 61 (1986–87), 361–62.

²⁹ For a summary of the four reports see Goitein, *Mediterranean Society*, 2:303 and Pines, "Studies in Abū'l-Barakāt," p. 121, n. 4.

³⁰ See Ibn Abi Uṣaybi'a, *Kitāb 'uyūn al-anbā' fī ṭabaqāt al-aṭibbā'*, ed. N. Riḍā (Beirut, 1965), 375.

³¹ See Ibn al-Qifti, *Ta'rikh al-ḥukamā'*, 343.

³² *Ibid.*, 346.

was in captivity.³³ From all of these accounts a self-evident conclusion emerges, viz. that under an Islamic regime it was much more pleasant and secure to be a Muslim.

Against this background, another story becomes all the more striking: it is said that Abū'l-Barakāt demanded as a condition for his conversion—and in contravention of Islamic law—that his Jewish daughters be granted the right to inherit him.³⁴ Now, we know of instances in medieval Europe in which pressure was exerted upon Jews to become Christians, while at the same time some effort was made to take their backgrounds and former lives into consideration.³⁵ From the story in which Abū'l-Barakāt lays down his conditions for conversion, however, a different picture emerges. Whether or not the account is historically accurate, it most certainly does not depict a fanatical Muslim regime whose Jewish subjects are forced to convert, while being permitted to retain their social fabric. On the contrary, the story presents a respected man who sets forth his conditions from a position of power, knowing even in that very moment of weakness that his adoption of Islam will meet with admiration.

It should be added that from the geonic responsa we learn that the phenomenon of an apostate leaving his property to his Jewish heirs was well-known and quite common. In this connection Maimonides writes:

Cases of this kind are brought before us every day . . . and we always handle them in the same manner: the estate of anyone who apostasizes is distributed among his (Jewish) sons. Should he have no Jewish sons, it is transferred to another suitable heir.³⁶

If this is the case, it is indeed possible that the story of Abū'l-Barakāt's laying down prior conditions before converting to Islam reflects a historical reality. Against the background of Maimonides' statement it becomes necessary to examine the possibility that the conditions laid down by Abū'l-Barakāt testify not only to the apostate's strong personality but also to the strength of a Jewish community whose laws achieved, at times, a certain priority over the laws of Islam.

³³ See Zāhir al-Dīn Abū'l-Ḥasan 'Alī b. Zayd al-Bayhaqī, *Tatimmat siwān al-ḥikma*, ed. Muḥammad Shāfi' (Lahore, 1935), 151–52.

³⁴ See Ibn al-Qiftī, *Ta'rikh al-ḥukamā'*, 343.

³⁵ They were not, for example, required to annul existing marriages which—for reasons of consanguinity—would have been forbidden under canon law; see Cohen, "The Mentality of the Medieval Jewish Apostate," 22.

³⁶ See Moses Maimonides, *Responsa*, ed. J. Blau (Jerusalem, 1960), 2:657. And see on this S.W. Baron, *A Social and Religious History of the Jews*, 2d ed. (New York, 1957), 3:143–44 and pp. 300–301, nn. 26–28.

This description of Abū'l-Barakāt's own conversion offers sufficient grounds to call into question the argument that his two disciples adopted Islam under his influence. When we come to examine his relationship with these students, our doubts are heightened. Samau'al recounts that he studied medicine and pharmacology with Abū'l-Barakāt. By his account, it is apparent that Samau'al was no more than a young man at the time and that he pursued these studies some time—perhaps even several years—before reaching his decision to convert. His remarks in no way suggest that there was any theological dimension to his meetings with Abū'l-Barakāt.³⁷

B. *Isaac Ibn Ezra*

The story of Isaac Ibn Ezra's conversion to Islam is more complicated.³⁸ As J.L. Fleischer showed, Isaac most likely converted to Islam outwardly and without conviction—before reverting to Judaism once he was in a position to do so.³⁹ At one time, the prevailing scholarly view held that Isaac's entire conversion process took place in Baghdad but this theory is now difficult to accept. As we have mentioned above, the Seljuk regime in Baghdad was not particularly zealous in this period. Moreover, it is difficult to conceive of a zealous regime which would both compel Jews to become Muslims and permit them to revert to Judaism with impunity. According to Islamic law, Jews may not be forced to convert; once they have become Muslims, however, they are liable to capital punishment should they return to their original faith.⁴⁰ In attempting to resolve this difficulty, Goitein posited that Isaac was forced to travel abroad to Christian lands in order to return to Judaism.⁴¹

Our information about Isaac's conversion to Islam derives entirely from two sources: his own verse and certain statements made by Judah al-Ḥarizi concerning him. In one poem attributed to Isaac he acknowledges that "he kept neither the oath sworn by his mouth nor all the laws learned from his prophet's lips." In another poem ("Yerivuni alei ozvi berit el") he explains that his profession of Islam—i.e., the *shahāda*—is entirely external:

³⁷ "Islām al-Samau'al" in Perlmann, "Ifhām al-Yahūd," 97.

³⁸ Concerning him see Goitein, *Mediterranean Society*, 2:302 and Lewis, *Jews of Islam*, 99.

³⁹ See: Fleischer, "Le-qorot yiṣṣāq ibn 'ezra," 263–76; N. Ben-Menahem, "Kelum hemir yiṣṣāq ibn 'ezra et dato?" *Sinai* 12 (1943): 443–50.

⁴⁰ See Fattal, *Le Statut légal des non musulmans*, 165–68 and Goitein, *Mediterranean Society*, 2:304.

⁴¹ See Goitein, *ibid.*, 303.

But if I still begin each prayer
 by professing a madman to be God's prophet,
 I do this with my lips alone, my heart responding,
 "You're a liar and your testimony is invalid."

Asserting that he has never tasted ritually unfit food he adds:

I have come back beneath the shadow of Your wing;
 I ask You, God, for Your forgiveness.⁴²

While some doubt exists concerning the attribution of these poems, there is an additional poem, whose attribution to Isaac is beyond question, in which the author refers to himself with the following words: "Embracing the faith of strangers I estranged myself from the speech of my fathers."⁴³ The identity of our author with Isaac ben Abraham Ibn Ezra is consistent as well with the testimony of al-Ḥarizi who recounts concerning Isaac:

When he came to the lands of the East, the glory of the Lord did not shine upon him and he discarded the precious garments of the faith. He stripped off his garments and put on other vestments.⁴⁴

Menahem Schmelzer, who published the poems from which the above citations were taken has shown that they were composed while Isaac was still in Egypt.⁴⁵ In this connection Schmelzer mentions an episode in which Judah Halevi was also involved. As is well known, Isaac arrived in Egypt as Judah Halevi's travelling companion.⁴⁶ From the Genizah documents we learn that one of Halevi's fellow travelers had been asked to convey a sum of money to a certain apostate in Alexandria, that Halevi had attempted to bring this apostate back to the fold of Judaism, that the apostate denounced Halevi to the authorities, and that only by virtue of Halevi's eminence did the affair conclude satisfactorily for him—the Muslim mobs venting their wrath, in the end, upon the hapless apostate.⁴⁷ Schmelzer suggested that Halevi's companion, Isaac Ibn Ezra, was involved in this affair and as a consequence was forced to "abandon the covenant."⁴⁸

We may object, however, that such an episode—whose ultimate victim proved to be the apostate, Halevi escaping unharmed—can hardly have

⁴² Schmelzer, *Isaac Ibn Ezra*, 146–47 and Ben-Menahem, *Isaac Ibn Ezra: Poems*, 16.

⁴³ Ben-Menahem, *ibid.*, 7.

⁴⁴ Judah al-Ḥarizi, *The Tahkemoni*, "The Third Gate," trans. V.E. Reichert, vol. 1, (Jerusalem, 1965), 79. For the Hebrew text see *Tahkemoni*, ed. Y. Toporowski (Tel Aviv, 1952), 45.

⁴⁵ *Isaac Ibn Ezra*, 11.

⁴⁶ Goitein even maintains that Isaac was Judah Halevi's son-in-law; see *Mediterranean Society*, 2:303. This view is rejected by Schmelzer, *ibid.*, 11.

⁴⁷ Goitein, *ibid.*, 304.

⁴⁸ Schmelzer, *ibid.*, 11.

brought about Isaac's conversion. Moreover, it is scarcely possible that Isaac could have renounced Islam under the same Muslim regime that he had previously embraced it. It seems to me, therefore, that Goitein was probably right in assuming that Isaac's conversion to Islam was undertaken strictly for appearance's sake. It was not, however, performed out of compulsion but rather for convenience. This being the case, it should in no way be connected with the aforementioned episode.⁴⁹

Furthermore, from the poems published by Schmelzer it appears that by the time Isaac departed from Egypt, his "Muslim phase" was already past. Schmelzer attempted to add a second act: according to him, when al-Ḥarizi mentions Isaac's apostasy "upon his arrival in eastern lands," we must assume that he converted a second time in Baghdad, under the influence of Abū'l-Barakāt.⁵⁰ Now while it is true that Isaac was apparently a complicated person,⁵¹ it seems most unlikely that he apostasized twice. Such fickleness would be much more natural for a person like al-Muqammaṣ who related to theology on a far more profound level. There are no signs of any such profundity in Isaac Ibn Ezra; his relationship to religion bears the stamp of a suffering, unfortunate personality. It seems more reasonable to me that by "lands of the East," al-Ḥarizi intended those countries to which Isaac journeyed from the "lands of the West," i.e. Spain. From al-Ḥarizi's perspective, once Isaac had left Spain, it made little difference whether he apostasized in Egypt or in Baghdad.

We see, therefore, that there are no grounds for connecting the conversions of Samau'al and Isaac with that of Abū'l-Barakāt. Each had his own motivations for becoming a Muslim which were unconnected to those of his fellows; these motivations, moreover, were probably unconnected to their mutual acquaintance, either causally or temporally. We cannot, in any event, speak here of a phenomenon: these three instances of conversion neither indicate the presence of a small circle of intellectuals whose intellectualism led them to embrace Islam, nor suggest the existence of any such widespread pattern of behavior.

C. *Samau'al al-Maghribī*

At the same time, Samau'al's autobiographical account of his conversion offers us a way of comprehending the phenomenon of conversion to

⁴⁹ Goitein, *ibid.*, 303.

⁵⁰ Schmelzer, *ibid.*, 11.

⁵¹ From two of Isaac's letters which have been preserved in the Genizah, Goitein concludes that he was "a rather strange person." (p. 303)

Islam—not as some prevailing fashion but as a phenomenon within the realm of the individual.

Of the three instances discussed, Samau'al's conversion is the only one presented as being theologically motivated. Ibn Kammūna, who was familiar with Samau'al's writings, cast aspersions both upon the purity of his motivations and the power of his intellect. He rejects one of Samau'al's arguments as being "too unsound to be discussed seriously"⁵²; elsewhere, he suggests that Samau'al's conversion to Islam was motivated less by his inner convictions than by a desire to enrage the Jews (*'ānada al-yahūd wa-aslama*).⁵³ As Samau'al mentions repeatedly, his relationship with his father was a factor in his own religious behavior. (As he puts it, his fear of his father and his reluctance to offend him prevented him from converting at a much earlier date.) Comments of this nature lead us to wonder how a psychologist of religion might analyze his case. In this respect, Samau'al matches the general picture sketched by Goitein,⁵⁴ for he converted only after he had become geographically separated from his father. Nevertheless, the fact itself remains before us: Samau'al did convert publicly and of his own volition. In doing so, moreover, he acted out of sufficient conviction to record the story of his conversion in writing. We cannot, therefore, subscribe to Ibn Kammūna's assessment and permit ourselves to judge Samau'al's truthfulness.

According to Samau'al, the turning point in his conversion came with his dreams, in which the prophets Samuel and Muḥammad were revealed to him. The dream as an incitement to conversion is a well-known topos, one we have already encountered in the case of Ka'b al-Akhbār. Samau'al, however, seeks to play down the dream's value in this context. He recounts that over the course of several years he refused to publicize the matter, because he sensed that his dreams would be regarded with scorn. Repeatedly, he emphasizes that his dream did not cause him to realize the soundness of Islam; it represented, rather, the crucial event which forced him to take the final step of severing himself from his faith and his father's house.⁵⁵

⁵² See Ibn Kammūna, *Examination of the Three Faiths*, 143 (= *Tanqīḥ al-Abḥāth*, 97).

⁵³ *Tanqīḥ al-Abḥāth*, 95. Perlmann renders *'ānada* "turned against"; see *Examination of the Three Faiths*, 139. From al-Ḥarizi's words it is clear that Samau'al truly enraged the Jews. The latter is treated much more harshly than Isaac Ibn Ezra. See al-Ḥarizi, *Tahkemoni*, trans. V.E. Reichert, 1:79 (= *Tahkemoni*, ed. Toporowski, 45): "He [i.e. Judah Ibn Abbas] too begat a renegade son who acted with amazing and impudent shamelessness." On this passage see also H. Schirmann, *Ha-shirah ha-ivrit bi-sefarad u-ve-provans*, 2d ed. (Jerusalem, 1960), 3:112, lines 173–79 and the notes ad loc.

⁵⁴ Goitein, *Mediterranean Society*, 2:299.

⁵⁵ "Islām al-Samau'al" in Perlmann, "Ifḥām al-Yahūd," 118–20.

According to Samau'al's conception, religious experience does not constitute a legitimate argument for conversion; the only legitimate argument is a rational one.

Samau'al describes his path to Islam as an intellectual process of study and systematic analysis. We have already seen how Ka'b employed his learning to argue that the Bible attests to the prophethood of Muḥammad. In his book *Ifḥām al-Yahūd* (*Silencing the Jews*) Samau'al discusses similar biblical verses at great length. In his account of his conversion, however, they appear only as part of his dream, i.e. at a secondary, experiential stage of his conversion. In the first stage, which he terms the intellectual-rational stage, there is no mention of the biblical verses. In his autobiography, Samau'al describes the course of his education—his curriculum included medicine, logic, history, and literature—leading up to his study of different religions. He writes as follows:

Then . . . I asked myself about the differences among men in religious faiths and tenets. I received the greatest impulse to inquire into the subject from reading the epistle of Bardhawayh the physician, in the book *Kalila wa-Dimna*.⁵⁶

The conclusion to which this book led him was that "reason is the final arbiter" and that rationally speaking, no one religious tradition is superior to any other; we therefore ought either to accept or reject all of them. Samau'al elects to accept them all.

An examination of "The Book of Barzawayh (Burzoe) the Physician" confirms that it served Samau'al as the source for these arguments. "Barzawayh the Physician" is presented as a spiritual autobiography. Like Samau'al's, it opens with Barzawayh's genealogy (*nasab*), an account of his parents' lives, and the education which they gave him. Barzawayh begins his account as well with the assertion that reason is God's greatest gift to man. He too passes on to a discussion of religions, stating:

I found that there are many religions and creeds and that the followers of these creeds differ one from another. Some inherited their religion from their ancestors, others adopted it on account of fear and coercion, yet others hoped by means of it to acquire worldly goods, pleasures, and prestige. But every one of them claims that his religion is the true and correct one and that whoever contradicts him lives in error and deception . . . I decided to frequent the scholars and leaders in every religious faction and to examine what they teach and stipulate in the hope that

⁵⁶ Trans. M. Perlmann in "The Medieval Polemics Between Islam and Judaism," in *Religion in a Religious Age*, ed. S.D. Goitein (Cambridge, Mass., 1974), 115; Arabic text in idem., "Ifḥām al-Yahūd," 103. The English translation of the autobiography in N. Stillman, *The Jews of Arab Lands* (Philadelphia, 1979), 118–20 omits the passage relating to "The Book of Barzawayh the Physician."

perhaps I could learn to distinguish truth from falsehood and attach myself confidently to the truth without having to accept on the authority of others something that I could not know or understand by myself. I pursued this plan, investigated and studied. But I discovered that all of these people merely repeat what was handed down to them. Each one praises his own religion and curses the religion of those who disagree with him. It became clear to me that their conclusions are based on illusions and that their speech is not motivated by a sense of fairness. In not one of them did I find that degree of honesty and rightmindedness which would induce rational persons to accept their words and be satisfied with them.⁵⁷

The equality of religions and the fact that they contradict each other leads Barzawayh to reject them all. He chooses instead an ethical, ascetic way of life as a certain truth upon which all religions agree. Now Samau'al's explicit statement, that his familiarity with the argument for the equality of religions derived from Barzawayh, implies that he had seen both Barzawayh's argument and his atheistic conclusion. Samau'al's own innovation, in this case, is to impose a conclusion upon the argument which is diametrically opposed to the one originally presented, viz. the affirmation of belief in all religions and—it goes without saying—in Islam, the final revelation which encompasses all others.

Further support may be offered for our claim that Samau'al was familiar with the argument for the equality of religions in its atheistic context. As far back as the tenth century, there were those who maintained that the autobiography of Barzawayh was actually composed by Ibn al-Muqaffa' who sought to introduce skepticism into the Muslim world.⁵⁸ Indeed, arguments similar to Barzawayh's and similar universalistic conclusions were used by some notorious Muslim free-thinkers. These arguments are present in somewhat veiled form in the writings of Ibn al-Rāwandī, who championed—in the name of the Indian Barāhima—the superiority of reason, deducing thereby the invalidity of revealed religions.⁵⁹ More explicitly, they are to be found in the works of the tenth-century philosopher Muḥammad b. Zakarīyā al-Rāzī, who states:

We have seen that those who hold fast to tradition [...] believe in the truth of their religion, basing themselves upon their faith in the truth of their ancestors' words. . . . He said: If this (religion) is true for this reason, then all faiths—Juda-

⁵⁷ Trans. F. de Blois in *Burzoy's Voyage to India and the Origin of the Book of Kalilah wa Dimnah* (London, 1990), 26; see the discussion on 28–32. For the Arabic text see Ibn al-Muqaffa', *Kalīla wa-Dimna*, ed. L. Cheikho (Beirut, 1905), 33–34; see also esp. 42–40.

⁵⁸ On the authenticity of Barzawayh's autobiography, see now M. Chokr, *Zandaqa et Zindīqs en Islam au second siècle de l'hégire* (Damascus, 1993), 179–208.

⁵⁹ See P. Kraus, "Beiträge zur islamische Ketzer-geschichte, das *Kitāb al-Zumurrud* des Ibn ar-Rāwandī," *RSO* 14 (1934): 93–129; 15 (1934): 335–79.

ism, Christianity, Zoroastrianism, and others—are valid as well, since they employ the same demonstrative method as does Islam.⁶⁰

Like Barzawayh, al-Rāzī derives the refutation of all revealed religions from the fact that they employ equivalent arguments to demonstrate their validity. This indeed is the logical conclusion to the problem as it is presented by Barzawayh. It stands to reason that Samau'al was acquainted with al-Rāzī's medical works; there is reason to believe, moreover, that he was acquainted as well with al-Rāzī's other writings—including this particular argument. Now, even if it were possible for him to have ignored Barzawayh's conclusion rejecting all religions, it is difficult to suppose that he could have ignored the same argument in the writings of al-Rāzī, who was well-known to have been an unbeliever. I am inclined, therefore, to suppose that Samau'al was conscious of the fact that he was adapting atheistic argumentation to the exigencies of a religious argument. Were al-Rāzī his only source in arguing for the equivalence of religions, it is doubtful whether Samau'al would have drawn upon him: aside from medical matters, in which he was regarded as a great authority, al-Rāzī was denigrated as an unbeliever. We may assume that Samau'al would not readily have mentioned such a dubious source in his autobiography. *Kalila wa-Dimna* on the other hand—including "The Book of Barzawayh the Physician"—was a much more acceptable source, which might well be cited in polite company.

The argument for the equivalence of religious traditions made its way as well into orthodox Islamic circles and is widespread in theological writings.⁶¹ I am unaware, however, of any other place in which the equivalence of religious traditions in and of themselves—without any further development—is taken as a proof for the validity of Islam. For comparative purposes, I shall bring one example which occurs as well in the context of religious conversion. 'Alī b. Rabbān al-Ṭabarī was a Christian intellectual who, like Abū'l-Barakāt, converted to Islam at an advanced age. Like Samau'al, al-Ṭabarī attacked his former faith, while seeking to justify his new one. According to al-Ṭabarī, he is writing so that slanderers may not assert that he converted to Islam out of a pursuit of temporal pleasures. Like Samau'al, al-Ṭabarī too hastens to assert the superiority of reason as a fundamental principle. Al-Ṭabarī does not, however, in any

⁶⁰ P. Kraus, "Raziana," *Orientalia* n.s. 5 (1936): 363, 367.

⁶¹ See, e.g., the spiritual autobiography of Abū Ḥāmid Muḥammad al-Ghazzālī, *Al-Munqidh min al-dalāl wa'l-mūsīl ilā dhī al-'izza wa'l-jalāl*, ed. J. Ṣalībā and K. 'Ayyād (Beirut, 1981), 81–82; trans. W.M. Watt, *The Faith and Practice of al-Ghazālī* (London, 1953), 21–22.

way allow for the possibility that all religious traditions are of equal value. His entire aim is to show the absolute superiority of the Islamic tradition on the one hand and the logical and historical distortions of the Christian tradition on the other.⁶² Reliance upon reason is part of the Arabic polemical tradition; this is evident from the discussion's framework, a theological engagement of intellectuals. Any inclination toward religious relativism such as we may encounter with Samau'al, however, belongs to this tradition only in a polemical way, as a strawman to be destroyed.

Summary: Relativism as a Factor in Conversion

It is possible to dismiss Samau'al's relativism as the weak argumentation of an eclectic theologian who sought to combine incompatible ideas. Such a view, at any rate, is expressed by Perlmann, who regards Samau'al's spiritual autobiography as no more than a youthful essay.⁶³ It seems to me, however, that the very presence of the argument in Samau'al's work has more to teach us than does the quality of his theology. In his day, the relativist argument was undoubtedly widespread and well-known in various versions, but always with the same atheistic conclusion. The fact, moreover, that Samau'al employs this as the single decisive argument which logically demands acceptance of Islam confirms the view that this argument was particularly widespread. It is possible as well that the relativist atmosphere prevailing in certain intellectual circles helped facilitate the transition between different religions—especially, of course, conversion to the dominant faith from an intellectual perspective.⁶⁴ To put it differently: although we have not encountered any systematic conversion of intellectuals to Islam in organized groups and under the influence of spiritual teachers, it appears that the subjects discussed by intellectuals during this period enabled them to adopt a detached position vis-à-vis reli-

⁶² See A. Khalife and W. Kutsch, "Al-Radd 'alā-n-naṣārā de Ali at-Ṭabari," *Mélanges de l'université Saint Joseph* 36 (1959): 115. Chokr, *Zandaqa et Zindiqs*, regards Barzawayh's introduction as a literary convention rather than an expression of true skepticism. On pp. 204–205 he cites examples where authors, like al-Ṭabari, start their quest for the true religion with the assumption of the primacy of the intellect and with a detached, objective examination of all religions. In none of these examples, however, does the author *conclude* with the equivalence of religions. Whereas the primacy of the intellect is indeed a commonplace theme in theological literature, the skeptical conclusion is not.

⁶³ See M. Perlmann, "Iffām al-Yahūd," 23.

⁶⁴ See M. Perlmann ed., *Tanqīḥ al-Abḥāth*, X–XII. On relativistic expressions in relation to all religions see also Lewis, *Jews of Islam*, 88 and p. 206, n. 29.

gion in general, a position which in certain circumstances, could lead them to embrace a new faith.

This relativism leads us again to Ibn Kammūna, with whom we will conclude: the claim that he converted to Islam is, apparently, incorrect. While Ibn Kammūna definitely drew upon Samau'al's anti-Jewish polemic, *Ifhām al-Yahūd*, we do not know whether he was familiar with the latter's autobiography. And although it is true that Ibn Kammūna too mentions the relativist argument, this argument was, as we have seen, sufficiently widespread and well-known for him to have received it from many other sources. To a certain degree, Ibn Kammūna confirms the impression that relativism typified the spirit of the age: his detached, objective attitude toward the three faiths is generally presented against the background of toleration which characterized the Mongol regime prior to its conversion to Islam. There is certainly a great deal of truth to this. It seems, nevertheless, that we must factor in as well the relativist tradition in Islamic philosophy—a tradition which paradoxically expressed itself in the polemical words of Samau'al the apostate.